

(May 23, 1993)

H.B. 238 (Effective August 30, 1993)

H.B. 535 (Effective August 30, 1993)

(May 24, 1993)

H.B. 563 (Effective August 30, 1993)

H.B. 790 (Effective September 1, 1993)

H.B. 860 (Effective September 1, 1993)

H.B. 961 (Effective September 1, 1993)

H.B. 979 (Effective September 1, 1993)

H.B. 1211 (Effective immediately)

H.B. 1450 (Effective immediately)

H.B. 2680 (Effective September 1, 1993)

S.B. 813 (Effective September 1, 1993)

S.B. 1324 (Effective immediately)

S.B. 632 (Effective September 1, 1993)

S.B. 141 (Effective immediately)

SEVENTY-SEVENTH DAY

(Wednesday, May 26, 1993)

The Senate met at 10:30 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brown, Carriker, Ellis, Haley, Harris of Tarrant, Harris of Dallas, Henderson, Lucio, Luna, Madla, Moncrief, Montford, Nelson, Parker, Patterson, Ratliff, Rosson, Shapiro, Shelley, Sibley, Sims, Truan, Turner, Wentworth, West, Whitmire, Zaffirini.

Absent-excused: Leedom.

A quorum was announced present.

Senate Doorkeeper James Morris offered the invocation as follows:

Heavenly Father, as we assemble, blessed with a new day that will provide opportunities of service, remind us to focus on life's blessings, not its barriers; on its opportunities, not its obstacles. Bless with Your grace the work and the workers here in the Senate today. May they act with courage and boldness, for both are needed. In Your name. Amen.

On motion of Senator Truan and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

LEAVE OF ABSENCE

On motion of Senator Truan, Senator Leedom was granted leave of absence for today on account of illness in the family.

CO-AUTHORS OF SENATE RESOLUTION 1033

On motion of Senator Shelley and by unanimous consent, Senators Brown, Patterson, Henderson, Parker, and Whitmire will be shown as Co-authors of S.R. 1033.

BILLS AND RESOLUTIONS SIGNED

The President announced the signing of the following enrolled bills and resolutions in the presence of the Senate after the captions had been read:

H.B. 24	H.B. 1660	S.J.R. 18
H.B. 84	H.B. 1687	S.B. 28
H.B. 158	H.B. 1691	S.B. 55
H.B. 198	H.B. 1713	S.B. 79
H.B. 452	H.B. 1878	S.B. 82
H.B. 779	H.B. 1945	S.B. 95
H.B. 923	H.B. 1969	S.B. 113
H.B. 1009	H.B. 2005	S.B. 127
H.B. 1156	H.B. 2058	S.B. 142
H.B. 1193	H.B. 2180	S.B. 160
H.B. 1213	H.B. 2308	S.B. 183
H.B. 1273	H.B. 2432	S.B. 251
H.B. 1285	H.B. 2458	S.B. 383
H.B. 1302	H.B. 2492	S.B. 400
H.B. 1309	H.B. 2750	S.B. 427
H.B. 1395	H.B. 2849	S.B. 671
H.B. 1498	H.C.R. 110	S.B. 738
H.B. 1652	S.C.R. 1	S.B. 952
H.B. 1657	S.C.R. 42	S.B. 1015
		S.B. 1201

MESSAGE FROM THE HOUSE

House Chamber
May 26, 1993

Mr. President: I am directed by the House to inform the Senate that the House has passed the following:

S.B. 83, Relating to utility service and related service provided by or to the state, a state agency or institution, or a local government. (As amended)

S.B. 84, Relating to the enforcement of support orders for children and the issuance of insurance coverage for certain persons subject to a medical support order for a child; providing a penalty. (As substituted and amended)

S.B. 242, Relating to the transfer of Texas Turnpike Authority projects to a county or local government corporation and to the administration and financing of those projects. (As substituted and amended)

S.B. 404, Relating to the right of certain municipal and county employees to purchase a continuation of health benefits coverage at retirement. (As substituted and amended)

S.B. 456, Relating to the punishment for certain offenses motivated by hate and to the eligibility for deferred adjudication, probation, or parole for persons charged with or convicted of those offenses. (As substituted and amended)

S.B. 773, Relating to the creation, powers, duties, and funding of regional poison control centers. (As amended)

S.B. 958, Relating to the registration of tow trucks. (As amended)

S.B. 987, Relating to the service area for a municipal drainage utility system. (As amended)

S.B. 1051, Relating to the reduction of solid waste by creating markets for recycled materials and otherwise promoting the use of recycled materials. (As substituted and amended)

S.B. 1058, Relating to fees imposed and collected and other revenue received by agencies of state and local government. (As substituted and amended)

S.B. 1110, Relating to state regulation and assistance in the field of fire protection, including the powers and duties of the Texas Commission on Fire Protection; providing a penalty.

S.B. 1234, Relating to the consolidation and dedication of funds in the Texas Natural Resource Conservation Commission. (As substituted)

S.B. 1409, Relating to medical liability actions and medical liability insurance; providing penalties.

S.B. 1410, Relating to state indemnification of and liability insurance premiums for certain health care claims. (As amended)

S.B. 1487, Relating to the ad valorem taxation of cotton.

H.C.R. 155, Honoring the city of Hale Center on the occasion of its centennial celebration.

H.C.R. 157, Urging the Defense Base Closure and Realignment Commission not to recommend closure of naval facilities in and near Corpus Christi.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

SENATE RESOLUTION 1072

Senator Brown offered the following resolution:

WHEREAS, The Senate of the State of Texas is proud to recognize Julia Marie Lightner Johnson on the auspicious occasion of her 60th birthday on May 26, 1993; and

WHEREAS, Born in Taylor, Texas, on May 26, 1933, Julia was the youngest of four children; her three older brothers, Theodore, Edward, and Raymond, kept a protective, watchful eye on their little sister; and

WHEREAS, Julia Lightner married William S. Johnson in 1951; they have three children, Billy, Teresa, and Joanne, and five wonderful grandchildren, Allan, Justin, Ethan, Matthew, and Rachel; and

WHEREAS, Throughout her busy and interesting life, Julia has been a major participant in volunteer work centered around her church, her children, and her politics; she was vice-president of the state Parent-Teacher Association as well as president at the local and district levels; and

WHEREAS, Well known in the corridors of power, Julia has worked in the legislature since 1973 when she became Representative Wilson Foreman's administrative assistant; in 1975 through 1978 she worked for Senator Frank Lombardino as his administrative assistant; from 1979 through 1981 she worked for Senator Carlos Truan; and from 1981 through 1984 she worked for Representative George Pierce; she is presently an indispensable administrative assistant for Senator Buster Brown; and

WHEREAS, Julia enjoys singing with her church choir; they have been to the Mozart Festival in Salzburg and have taken a trip to Rome at the invitation of the Pope; Julia also directs the music at Saint Charles Catholic Church near the family's weekend lake house; and

WHEREAS, This indefatigable lady orchestrates the renowned sine die sing-a-long parties that Senator Brown gives at the end of each session and composes unique lyrics to Christmas carols at the Senate's annual Christmas party; and

WHEREAS, Noted for her exemplary enthusiasm, Julia Johnson is shepherding a fifth office staff through a Regular Session; along the way, she provides a lot of Texas history, some long-term legislative history, and Czech sayings and songs; and

WHEREAS, Spirited and energetic in her neighborhood, Julia organizes a yearly Easter egg hunt and visit from Santa Claus; she has helped create a road and a park with the North Oak Neighborhood Association; and

WHEREAS, In her spare time, Julia enjoys playing bridge with her friends; President of the Travis County Republican Women's Club from 1990 through 1992, she is currently President of the Knights of Columbus Women's Auxiliary; this beloved Senate staffer says she looks forward to her retirement when she will study genealogy and spend more time with her grandchildren; and

WHEREAS, It is indeed fitting and appropriate that the Senate wish this celebrated and extraordinary lady a very happy birthday; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 73rd Legislature, hereby extend sincere birthday greetings to Julia Marie Lightner Johnson on the momentous occasion of her 60th birthday; and, be it further

RESOLVED, That a copy of this Resolution be prepared for her as an expression of high regard from the Texas Senate.

The resolution was read.

On motion of Senator Truan and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Brown, the resolution was adopted by a viva voce vote.

CAPITOL PHYSICIAN

Senator Luna was recognized and presented Dr. Jim Martin of San Antonio as the "Doctor for the Day."

The Senate welcomed Dr. Martin and thanked him for his participation in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians.

SENATE BILL 210 WITH HOUSE AMENDMENTS

Senator Zaffirini called S.B. 210 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Committee Amendment No. 1

Amend S.B. 210 as follows:

(1) On page 14 between lines 9 and 10 add a new Subsection (7) to read as follows:

"(7) Mental health services, as defined by this section, provided by a member of the clergy do not include religious, moral and spiritual counseling, teaching and instruction."

Amendment No. 2

Amend Committee Amendment No. 1 to S.B. 210 to read as follows:

Amend S.B. 210 as follows:

(1) On page 14 between lines 12 and 13 add a new Subsection (7) to read as follows:

"(7) Mental health services, as defined by this section, provided by a member of the clergy do not include religious, moral and spiritual counseling, teaching and instruction."

Amendment No. 3

Amend S.B. 210 as follows:

1.) On page 31, add a new item to the list in Sec. 571.0065(a) as follows:

(8) one person who has practiced rage therapy, trust development therapy or rough signing as part of a professional practice for which the person is properly licensed or certified.

2.) Strike "and" from line 17.

3.) Strike the period and add "; and" on line 20.

Amendment No. 4

Amend S.B. 210 as follows:

(1) Beginning on page 6, line 23, strike Subsections (c), (d), and (g) and substitute in lieu thereof the following:

(c) A plaintiff who prevails in a suit under this section may recover actual damages, including damages for mental anguish even if an injury other than mental anguish is not shown.

(d) In addition to an award under Subsection (c), a plaintiff who prevails in a suit under this section may recover exemplary damages and reasonable attorney fees.

(g) A suit under this section may be brought in the district court of the county in which:

- (1) the plaintiff received care or treatment; or
- (2) the defendant conducts business.

Amend S.B. 210 as follows:

(1) Beginning on page 9, line 22, strike Subsections (d), (e), and (f) and substitute in lieu thereof the following:

(d) A plaintiff who prevails in a suit under this section may recover actual damages, including damages for mental anguish even if an injury other than mental anguish is not shown.

(e) In addition to an award under Subsection (c), a plaintiff who prevails in a suit under this section may recover exemplary damages and reasonable attorney fees.

(f) A suit under this section may be brought in the district court of the county in which:

- (1) the plaintiff was employed by the defendant; or
- (2) the defendant conducts business.

Amendment No. 5

Amend S.B. 210 as follows:

(1) Beginning on page 16, line 13, strike Subsections (a) and (b) and substitute in lieu thereof the following:

(a) A plaintiff who prevails in a suit under this section may recover actual damages, including damages for mental anguish even if an injury other than mental anguish is not shown.

(b) In addition to an award under Subsection (a), a plaintiff who prevails in a suit under this section may recover exemplary damages and reasonable attorney fees.

Amendment No. 6

Amend S.B. 210 on page 31, after line 12, by inserting a new Subsection (6) to read as follows and by renumbering all remaining subsections:

- (6) one licensed occupational therapist;

Amendment No. 7

Amend S.B. 210 by inserting a new article, appropriately numbered, to read as follows and renumbering subsequent articles appropriately:

ARTICLE _____

SECTION _____. Subchapter I, Chapter 161, Health and Safety Code, as added by Chapter 15, Acts of the 72nd Legislature, 1st Called Session, 1991, is amended to read as follows:

SUBCHAPTER I. ILLEGAL REMUNERATION

Sec. 161.091. PROHIBITION ON ILLEGAL REMUNERATION.

(a) A person [~~licensed, certified, or registered by a health care regulatory agency of this state~~] commits an offense if the person intentionally or

knowingly offers to pay or agrees to accept any remuneration directly or indirectly, overtly or covertly, in cash or in kind, to or from any person, firm, association of persons, partnership, or corporation for securing or soliciting patients or patronage for or from a person licensed, certified, or registered by a state health care regulatory agency.

(b) It is a rebuttable presumption that a person has violated this section if:

(1) the person refers or accepts a referral of a person to an inpatient mental health facility or chemical dependency treatment facility;

(2) before the patient is discharged or furloughed from the inpatient facility, the person pays the referring person or accepts payment from the inpatient facility for outpatient services to be provided by the referring person after the patient is discharged or furloughed from the inpatient facility; and

(3) the referring person does not provide the outpatient services for which payment was made and does not return to the inpatient facility the payment for the services not provided.

(c) This section shall not be construed to prohibit advertising except that which is false, misleading, or deceptive or that which advertises professional superiority or the performance of a professional service in a superior manner and that is not readily subject to verification.

(d) ~~(e)~~ Except as provided by this section, an offense under this section is a Class A misdemeanor. If it is shown on (in) the trial of a person under [violation of] this section that the person has previously been convicted of an offense under [a violation of] this section or that the person was employed by a federal, state, or local government at the time the offense occurred, the offense is, ~~on conviction the person shall be punished for~~ a felony of the third degree. In addition to any other penalties or remedies provided, a violation of this section shall be grounds for disciplinary action by a ~~(the)~~ regulatory agency that has issued a license, certification, or registration to the person.

~~(e) [(d)] The appropriate health care regulatory agency may institute an action to enjoin a violation or potential violation of this section. The action for an injunction shall be in addition to any other action, proceeding, or remedy authorized by law. The regulatory agency shall be represented by the attorney general.~~

~~[(e)] This section shall not be construed to prohibit remuneration for advertising, marketing, or other services that are provided for the purpose of securing or soliciting patients provided the remuneration is set in advance, is consistent with the fair market value of the services, and is not based on the volume or value of any patient referrals or business otherwise generated between the parties.~~

~~[(f)] This section shall [not] be construed to permit [prohibit] any payment, business arrangements, or payments practice permitted [not prohibited] by 42 U.S.C. Section 1320a-7b(b) or any regulations promulgated pursuant thereto.~~

~~[(g)] This section shall not apply to licensed insurers, governmental entities, including intergovernmental risk pools established under Chapter 172, Local Government Code, and institutions as defined in the Texas State~~

College and University Employees Uniform Insurance Benefits Act (Article 3.50-3, Vernon's Texas Insurance Code), group hospital service corporations, or health maintenance organizations which reimburse, provide, offer to provide, or administer hospital, medical, dental, or other health-related benefits under a health benefits plan for which it is the payor.

Sec. 161.0915. EXEMPTION. (a) This subchapter does not apply to a health care information service that:

(1) provides its services to a consumer only by telephone communication on request initiated by the consumer and without charge to the consumer;

(2) provides information about health care providers to enable consumer selection of health care provider services without any direct influence by a health care provider on actual consumer selection of those services;

(3) in response to each consumer inquiry, on a nondiscriminatory basis, provides information identifying health care providers who substantially meet the consumer's detailed criteria based on consumer responses to standard questions designed to elicit a consumer's criteria for a health care provider, including criteria concerning location of the practice, practice specialties, costs and payment policies, acceptance of insurance coverage, general background and practice experience, and various personal characteristics;

(4) does not attempt through its standard questions for solicitation of consumer criteria or through any other means or methods to steer or lead a consumer to select or consider selection of a particular health care provider for health care provider services;

(5) identifies to a consumer:

(A) all health care providers who substantially meet the consumer's stated criteria and who are located within the zip code area in which the consumer elects to obtain services from a health care provider; or

(B) all health care providers substantially meeting the consumer's stated criteria who are located in zip code areas in the closest proximity to the elected zip code area if no health care provider substantially meeting the consumer's criteria is located within that zip code area;

(6) discloses to each consumer the relationship between the health care information service and health care providers participating in its services;

(7) does not provide or represent itself as providing diagnostic or counseling services or assessment of illness or injury and does not make any promises of cure or guarantees of treatment;

(8) does not provide or arrange for transportation of a consumer to or from the location of a health care provider;

(9) does not limit the scope of or direct its advertising or other marketing of its services to a particular health care provider specialty, to a particular segment of the population, or to persons suffering from a particular illness, condition, or infirmity;

(10) charges to and collects fees from a health care provider participating in its services that are set in advance, are consistent with the fair market value for those information services, and are not based on the potential value of a patient or patients to a health care provider or on the value of or a percentage of the value of a professional service provided by the health care provider;

(11) does not limit participation by a health care provider in its services to a particular health care specialty or to a particular service provided by a health care provider;

(12) does not limit participation by a health care provider in its services for a reason other than:

(A) failure to have a current, valid license without limitation to practice in this state;

(B) failure to maintain professional liability insurance while participating in the service;

(C) significant dissatisfaction of consumers of the health care information service that is documented and can be proved;

(D) a decision by a peer review committee that the health care provider has failed to meet prescribed standards or has not acted in a professional or ethical manner; or

(E) termination of the contract between the health care provider and the health care information service by either party under the terms of the contract;

(13) maintains a customer service department to handle complaints and answer questions for consumers;

(14) maintains a customer follow-up system to monitor consumer satisfaction; and

(15) does not use, maintain, distribute, or provide for any purpose any information that will identify a particular consumer, such as a name, address, or telephone number, obtained from a consumer seeking its services other than for the purposes of:

(A) providing the information to the health care provider with whom an appointment is made;

(B) performing administrative functions necessary to operate the health care information service;

(C) providing directly to a consumer, at the request of that consumer on that consumer's initial contact with the health care information service, information relating to health-related support groups or providers of health-care-related services or equipment within the area or areas of interest requested by the consumer; or

(D) conducting analytical research on data obtained through provision of services and preparing statistical reports that generally analyze that data but do not in any manner identify one or more specific consumers.

(b) In this section:

(1) "Health care information service" means a person who provides information to a consumer regarding health care providers that can enable the consumer to select one or more health care providers to furnish health care services.

(2) "Health care provider" means a person licensed, certified, or registered by a state health care regulatory agency other than a:

(A) mental health facility as defined by Section 571.003;
or

(B) treatment facility as defined by Section 464.001.

Sec. 161.092. NOTIFICATION OF REMUNERATION. (a) A person commits an offense if:

(1) the person, in a manner otherwise permitted under Section 161.091, accepts remuneration to secure or solicit patients or patronage for a person licensed, certified, or registered by a state health care regulatory agency; and

(2) does not, at the time of initial contact and at the time of referral, disclose to the patient:

(A) the person's affiliation, if any, with the person for whom the patient is secured or solicited; and

(B) that the person will receive remuneration, directly or indirectly, for securing or soliciting the patient.

(b) Except as otherwise provided by this section, an offense under this section is a Class A misdemeanor. If it is shown on the trial of a person under this section that the person has previously been convicted of an offense under this section or that the person was employed by a federal, state, or local government at the time the offense occurred, the offense is a felony of the third degree.

(c) In addition to other penalties or remedies provided by this subchapter, a violation of this section is grounds for disciplinary action by a regulatory agency that has issued a license, certification, or registration to the person.

Sec. 161.093. INJUNCTION. (a) The attorney general or the appropriate district or county attorney, in the name of the state, may institute and conduct an action in a district court of Travis County or of a county in which any part of the violation occurs for an injunction or other process against a person who is violating this subchapter.

(b) The district court may grant any prohibitory or mandatory relief warranted by the facts, including a temporary restraining order, temporary injunction, or permanent injunction.

Sec. 161.094. CIVIL PENALTIES. (a) A person who violates this subchapter is subject to a civil penalty of not more than \$10,000 for each day of violation and each act of violation. In determining the amount of the civil penalty, the court shall consider:

(1) the person's previous violations;

(2) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation;

(3) whether the health and safety of the public was threatened by the violation;

(4) the demonstrated good faith of the person; and

(5) the amount necessary to deter future violations.

(b) The attorney general or the appropriate district or county attorney, in the name of the state, may institute and conduct an action authorized

by this section in a district court of Travis County or of a county in which any part of the violation occurs.

(c) The party bringing the suit may:

(1) combine a suit to assess and recover civil penalties with a suit for injunctive relief brought under Section 161.093; or

(2) file a suit to assess and recover civil penalties independently of a suit for injunctive relief.

(d) The party bringing the suit may recover reasonable expenses incurred in obtaining injunctive relief, civil penalties, or both, including investigation costs, court costs, reasonable attorney fees, witness fees, and deposition expenses.

(e) A penalty collected under this section by the attorney general shall be deposited to the credit of the general revenue fund. A penalty collected under this section by a district or county attorney shall be deposited to the credit of the general fund of the county in which the suit was heard.

(f) The civil penalty and injunction authorized by this subchapter are in addition to any other civil, administrative, or criminal action provided by law.

Amendment No. 1 on Third Reading

Amend S.B. 210 on third reading, in Section 2.01 of the bill, in Section 81.003, Civil Practice and Remedies Code, by adding a new Subsection (d) to read as follows:

(d) If a mental health professional who sexually exploits a patient or former patient is a member of the clergy, liability if any under this section is limited to the church, congregation, or parish in which the member of the clergy carried out the clergy member's pastoral duties:

(1) at the time the sexual exploitation occurs, if the liability is based on a violation of Subsection (a); or

(2) at the time of the previous occurrence of sexual exploitation, if the liability is based on a violation of Subsection (b).

The amendments were read.

Senator Zaffirini moved to concur in the House amendments to S.B. 210.

On motion of Senator Zaffirini and by unanimous consent, the motion to concur and consideration of the House amendments to S.B. 210 were withdrawn.

SENATE BILL 1080 WITH HOUSE AMENDMENTS

Senator Harris of Dallas called S.B. 1080 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Amendment

Amend S.B. 1080 by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to the regulation of podiatry and to the continuation and functions of the Texas State Board of Podiatry Examiners; providing a penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 4567, Revised Statutes, is amended to read as follows:

Art. 4567. DEFINITIONS. (a) Any person shall be regarded as practicing podiatry [chiroprody] within the meaning of this law, and shall be deemed and construed to be a podiatrist [chiroprodist], who shall treat or offer to treat any disease or disorder, physical injury or deformity, or ailment of the human foot by any system or method and charge therefor, directly or indirectly, money or other compensation, or who shall publicly profess or claim to be a chiroprodist, podiatrist, pedicurist, foot specialist, doctor or use any title, degree, letter, syllable, word or words that would tend to lead the public to believe such person was a practitioner authorized to practice or assume the duties incident to the practice of podiatry [chiroprody].

(b) In this chapter:

(1) "Board" means the Texas State Board of Podiatry Examiners.

(2) "Executive director" means the employee of the board who manages the day-to-day operations of the board.

SECTION 2. Chapter 11, Title 71, Revised Statutes, is amended by adding Article 4567e to read as follows:

Art. 4567e. ADMINISTRATIVE PENALTY. (a) The board may impose an administrative penalty against a person licensed or regulated under this chapter who violates this chapter or a rule or order adopted under this chapter.

(b) The penalty for a violation may be in an amount not to exceed \$2,500. Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty.

(c) The amount of the penalty shall be based on:

(1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of any prohibited acts, and the hazard or potential hazard created to the health, safety, or economic welfare of the public;

(2) the economic harm to property or the environment caused by the violation;

(3) the history of previous violations;

(4) the amount necessary to deter future violations;

(5) efforts to correct the violation; and

(6) any other matter that justice may require.

(d) An executive director who determines that a violation has occurred may issue to the board a report that states the facts on which the determination is based and the director's recommendation on the imposition of a penalty, including a recommendation on the amount of the penalty.

(e) Within 14 days after the date the report is issued, the executive director shall give written notice of the report to the person. The notice may be given by certified mail. The notice must include a brief summary of the alleged violation and a statement of the amount of the recommended penalty and must inform the person that the person has a right to a hearing

on the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(f) Within 20 days after the date the person receives the notice, the person in writing may accept the determination and recommended penalty of the executive director or may make a written request for a hearing on the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(g) If the person accepts the determination and recommended penalty of the executive director, the board by order shall approve the determination and impose the recommended penalty.

(h) If the person requests a hearing or fails to respond timely to the notice, the executive director shall set a hearing and give notice of the hearing to the person. The hearing shall be held by an administrative law judge of the State Office of Administrative Hearings. The administrative law judge shall make findings of fact and conclusions of law and promptly issue to the board a proposal for a decision about the occurrence of the violation and the amount of a proposed penalty. Based on the findings of fact, conclusions of law, and proposal for a decision, the board by order may find that a violation has occurred and impose a penalty or may find that no violation occurred.

(i) The notice of the board's order given to the person under the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes) and its subsequent amendments must include a statement of the right of the person to judicial review of the order.

(j) Within 30 days after the date the board's order is final as provided by Section 16(c), Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes), and its subsequent amendments, the person shall:

(1) pay the amount of the penalty;

(2) pay the amount of the penalty and file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty; or

(3) without paying the amount of the penalty, file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(k) Within the 30-day period, a person who acts under Subsection (j)(3) of this section may:

(1) stay enforcement of the penalty by:

(A) paying the amount of the penalty to the court for placement in an escrow account; or

(B) giving to the court a supersedeas bond approved by the court for the amount of the penalty and that is effective until all judicial review of the board's order is final; or

(2) request the court to stay enforcement of the penalty by:

(A) filing with the court a sworn affidavit of the person stating that the person is financially unable to pay the amount of the penalty and is financially unable to give the supersedeas bond; and

(B) giving a copy of the affidavit to the executive director by certified mail.

(l) An executive director who receives a copy of an affidavit under Subsection (k)(2) of this section may file with the court within five days after the date the copy is received, a contest to the affidavit. The court shall hold a hearing on the facts alleged in the affidavit as soon as practicable and shall stay the enforcement of the penalty on finding that the alleged facts are true. The person who files an affidavit has the burden of proving that the person is financially unable to pay the amount of the penalty and to give a supersedeas bond.

(m) If the person does not pay the amount of the penalty and the enforcement of the penalty is not stayed, the executive director may refer the matter to the attorney general for collection of the amount of the penalty.

(n) Judicial review of the order of the board:

(1) is instituted by filing a petition as provided by Section 19, Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes) and its subsequent amendments; and

(2) is under the substantial evidence rule.

(o) If the court sustains the occurrence of the violation, the court may uphold or reduce the amount of the penalty and order the person to pay the full or reduced amount of the penalty. If the court does not sustain the occurrence of the violation, the court shall order that no penalty is owed.

(p) When the judgment of the court becomes final, the court shall proceed under this subsection. If the person paid the amount of the penalty and if that amount is reduced or is not upheld by the court, the court shall order that the appropriate amount plus accrued interest be remitted to the person. The rate of the interest is the rate charged on loans to depository institutions by the New York Federal Reserve Bank, and the interest shall be paid for the period beginning on the date the penalty was paid and ending on the date the penalty is remitted. If the person gave a supersedeas bond and if the amount of the penalty is not upheld by the court, the court shall order the release of the bond. If the person gave a supersedeas bond and if the amount of the penalty is reduced, the court shall order the release of the bond after the person pays the amount.

(q) A penalty collected under this section shall be remitted to the comptroller for deposit in the general revenue fund.

(r) All proceedings under this section are subject to the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes) and its subsequent amendments.

SECTION 3. Article 4568, Revised Statutes, is amended by amending Subsections (a)-(f) and adding Subsections (m)-(r) to read as follows:

(a) The Texas State Board of Podiatry Examiners shall consist of nine (9) members. Six (6) members must be reputable practicing podiatrists who have resided in this state and who have been actively engaged in the

practice of podiatry for five (5) years immediately preceding their appointment. Three (3) members must be representatives of the general public. However, a public member may not participate in any part of the examination process for applicants for a license issued by the Board that requires knowledge of the practice of podiatry. Appointments to the Board shall be made by the Governor without regard to the race, color, ~~[creed;]~~ disability, sex, religion, or national origin of the appointees.

(b) A person is not eligible for appointment as a public member of the Board if the person or the person's spouse:

(1) is registered, certified, or licensed by an occupational regulatory agency in the field of health care;

(2) is employed by or participates in the management of a ~~[an agency or]~~ business entity or other organization regulated by the Board or receiving funds from the Board ~~[that provides health-care services or that sells, manufactures, or distributes health-care supplies or equipment]; [or]~~

(3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by the Board or receiving funds from the Board; or

(4) uses or receives a substantial amount of tangible goods, services, or funds from the Board, other than compensation or reimbursement authorized by law for Board membership, attendance, or expenses ~~[has, other than as a consumer, a financial interest in a business entity that provides health-care services or that sells, manufactures, or distributes health-care supplies or equipment].~~

(c)(1) An officer, employee, or paid consultant of a Texas trade association in the health care industry may not be a member or employee of the Board who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule.

(2) A person who is the spouse of an officer, manager, or paid consultant of a Texas trade association in the health care industry may not be a Board member and may not be an employee of the Board who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule.

(3) For the purposes of this section, a Texas trade association is a nonprofit, cooperative, and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest ~~[A member or employee of the Board may not be an officer, employee, or paid consultant of a statewide or national trade association in the health-care industry. A member or employee of the Board may not be related within the second degree by affinity or consanguinity, as determined under Article 5996h, Revised Statutes, to a person who is an officer, employee, or paid consultant of a statewide or national trade association in the health-care industry].~~

(d) A person may not serve as a member of the Board or act as the general counsel to the Board if the person is required to register as a lobbyist under Chapter 305, Government Code, and its subsequent amendments, because of the person's activities for compensation on behalf of a profession related to the operation of the Board [who is required to register as a lobbyist under Chapter 305, Government Code, may not serve as a member of the Board or act as the general counsel to the Board].

(e) It is a ground for removal from the Board if a member:

(1) does not have at the time of appointment the qualifications required by Subsection [Section] (a) or (b) of this article for appointment to the Board;

(2) does not maintain during service on the Board the qualifications required by Subsection (a) or (b) of this article;

(3) [(2)] violates a prohibition established by Subsection [Section] (c) or (d) of this article; [or]

(4) cannot discharge the member's term for a substantial part of the term for which the member is appointed because of illness or disability; or

(5) is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year unless the absence is excused by a majority vote of the Board

[(3) fails to attend at least half of the regularly scheduled Board meetings held in a calendar year, excluding meetings held while the person was not a Board member].

(f)(1) The validity of an action of the Board is not affected by the fact that it is taken when a ground for removal of a Board member exists.

(2) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the president of the Board of the ground. The president shall then notify the governor that a potential ground for removal exists [If a ground for removal of a member of the Board exists, the Board's actions during the existence of the ground for removal are not invalid for that reason].

(m) The Board shall file annually with the governor and the presiding officer of each house of the legislature a complete and detailed written report accounting for all funds received and disbursed by the Board during the preceding fiscal year. The annual report must be in the form and reported in the time provided by the General Appropriations Act.

(n) The executive director or the director's designee shall develop an intra-agency career ladder program. The program shall require intra-agency posting of all nonentry level positions concurrently with any public posting.

(o) The executive director or the director's designee shall develop a system of annual performance evaluations based on measurable job tasks. All merit pay for Board employees must be based on the system established under this subsection.

(p) The Board shall develop and implement policies that clearly define the respective responsibilities of the Board and the staff of the Board.

(q) The Board shall prepare and maintain a written plan that describes how a person who does not speak English can be provided reasonable

access to the Board's programs. The Board shall also comply with federal and state laws for program and facility accessibility.

(r) The Board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the Board and to speak on any issue under the jurisdiction of the Board.

SECTION 4. Article 4568b, Revised Statutes, is amended to read as follows:

Art. 4568b. SUNSET PROVISION. The Texas State Board of Podiatry Examiners is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished September 1, 2005 ~~[1993]~~.

SECTION 5. Chapter 11, Title 71, Revised Statutes, is amended by adding Article 4568c to read as follows:

Art. 4568c. EQUAL EMPLOYMENT OPPORTUNITY POLICIES. (a) The executive director or the director's designee shall prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, application, training, and promotion of personnel that are in compliance with the Commission on Human Rights Act (Article 5221k, Vernon's Texas Civil Statutes) and its subsequent amendments;

(2) a comprehensive analysis of the board workforce that meets federal and state guidelines;

(3) procedures by which a determination can be made of significant underuse in the board workforce of all persons for whom federal or state guidelines encourage a more equitable balance; and

(4) reasonable methods to appropriately address those areas of underuse.

(b) A policy statement prepared under Subsection (a) of this article must cover an annual period, be updated annually, be reviewed by the Commission on Human Rights for compliance with Subsection (a)(1) of this article, and be filed with the governor's office.

(c) The governor's office shall deliver a biennial report to the legislature based on the information received under Subsection (b) of this article. The report may be made separately or as part of other biennial reports to the legislature.

SECTION 6. Chapter 11, Title 71, Revised Statutes, is amended by adding Article 4568d to read as follows:

Art. 4568d. TRAINING: STANDARDS OF CONDUCT: INFORMATION. (a) Each board member shall comply with the board member training requirements established by any other state agency that is given authority to establish the requirements for the board.

(b) The board shall provide to its members and employees, as often as necessary, information regarding their qualifications for office or employment under this chapter and their responsibilities under applicable laws relating to standards of conduct for state officers or employees.

SECTION 7. Subsections (c), (i), and (k), Article 4569, Revised Statutes, are amended to read as follows:

(c) The examinations shall be written and practical and in the English language, and all applicants that possess the qualifications required for an examination and who shall pass the examinations prescribed with a general average of seventy-five per cent (75%) in all subjects and not less than sixty per cent (60%) in any one subject shall be issued a license by the Board to practice podiatry in this State. The Board shall have the examination validated by an independent testing professional.

~~(i) Not later than the 30th day after the date on which a licensing examination is administered under this chapter, the secretary-treasurer of the Board shall notify each examinee of the results of the examination. However, if an examination is graded or reviewed by a national testing service, the secretary-treasurer of the Board shall notify examinees of the results of the examination not later than the 14th day after the date on which the Board receives the results from the testing service. If the notice of examination results graded or reviewed by a national testing service will be delayed for longer than 90 days after the examination date, the secretary-treasurer of the Board shall notify the examinee of the reason for the delay before the 90th day [The secretary-treasurer of the Board shall report to each applicant the grade made in each subject and the general average on the examination within sixty (60) days from the date of the examination].~~

(k) If requested in writing by a person who fails the licensing examination administered under this chapter, the Board shall furnish the person with an analysis of the person's performance on the examination.

SECTION 8. Section 1, Article 4571, Revised Statutes, is amended by amending Subsections (c), (d), (e), (g), and (h) and adding Subsection (i) to read as follows:

(c)(1) The Board shall develop a mandatory continuing education program. In developing its program the Board shall:

(A) establish by rule the minimum hours of continuing education required for license renewal;

(B) identify the key factors that lead to the competent performance of professional duties;

(C) develop a process to evaluate and approve continuing education courses; and

(D) develop a process to assess the participation and performance of a person with a license in continuing education courses to enable the Board to evaluate the overall effectiveness of the program.

(2) The Board may assess the continuing education needs of a person with a license and require the person to attend continuing education courses specified by the Board ~~[In order to ensure the continuing competence of persons licensed to practice podiatry, the Texas State Board of Podiatry Examiners may adopt and administer rules requiring continuing education, not to exceed 25 hours per licensee per year, as a prerequisite to annual license renewal. If adopted by the Board, such rules shall establish standards of accreditation for continuing education programs or courses of study, and only those programs or courses of study which are~~

~~inspected and accredited by the Board shall apply toward the satisfaction of such continuing education requirements. The Board is hereby authorized to impose a fee, not to exceed \$25 per licensee per year, to cover the cost of administration of any continuing education rules which may be adopted pursuant to this Section].~~

(d) A person may renew his unexpired license by ~~[satisfying any continuing education requirements pursuant to Subsection (c) of this Section and by]~~ paying to the Board before the expiration date of the license the required renewal fee.

(e) If a person's license has been expired for 90 days or less, the person may renew the license by ~~[satisfying any continuing education requirements pursuant to Subsection (c) of this Section and by]~~ paying to the Board the required renewal fee and a fee that is one-half of the examination fee for the license.

(g) If a person's license has been expired for more than 90 days but less than one year ~~[two years]~~, the person may renew the license by ~~[satisfying any continuing education requirements pursuant to Subsection (c) of this Section and by]~~ paying to the Board all unpaid renewal fees and a fee that is equal to the examination fee for the license.

(h) If a person's license has been expired for one year or longer ~~[two years or more]~~, the person may not renew the license. The person may obtain a new license by submitting to reexamination and complying with the requirements and procedures for obtaining an original license. However, the Board may renew without reexamination an expired license of a person who was licensed in this state, moved to another state, and is currently licensed and has been in practice in the other state for the two years preceding application. The person must pay to the Board a fee that is equal to the examination fee for the license.

(i) At least 30 days before the expiration of a person's license, the Board shall send written notice of the impending license expiration to the person at the licensee's last known address according to the records of the Board.

SECTION 9. Article 4571, Revised Statutes, is amended by adding Section 7 to read as follows:

Sec. 7. The Board by rule may provide for a person who holds a license under this chapter to be placed on inactive status. Rules adopted under this section shall include a time limit for a license holder to remain on inactive status.

SECTION 10. Chapter 11, Title 71, Revised Statutes, is amended by adding Article 4571a to read as follows:

Art. 4571a. PROVISIONAL LICENSES. (a) On application, the board shall grant a provisional license to practice podiatry. An applicant for a provisional license under this section must:

(1) be licensed in good standing as a podiatrist in another state, the District of Columbia, or a territory of the United States that has licensing requirements that are substantially equivalent to the requirements of this chapter;

(2) have passed a national or other examination recognized by the board relating to the practice of podiatry; and

(3) be sponsored by a person licensed by the board under this chapter with whom the provisional license holder may practice under this article.

(b) An applicant for a provisional license may be excused from the requirement of Subsection (a)(3) of this article if the board determines that compliance with that subsection constitutes a hardship to the applicant.

(c) A provisional license is valid until the date the board approves or denies the provisional license holder's application for a license. The board shall issue a license under this chapter to the holder of a provisional license under this section if:

(1) the provisional license holder passes the examination required by Article 4569, Revised Statutes, and its subsequent amendments;

(2) the board verifies that the provisional license holder has the academic and experience requirements for a license under this chapter; and

(3) the provisional license holder satisfies any other license requirements under this chapter.

(d) The board must complete the processing of a provisional license holder's application for a license not later than the 180th day after the date the provisional license is issued. The board may extend this deadline to allow for the receipt of pending examination results.

SECTION 11. Chapter 11, Title 71, Revised Statutes, is amended by adding Article 4571b to read as follows:

Art. 4571b. TEMPORARY LICENSE. (a) The board by rule may adopt a procedure for the issuance of a temporary license to an applicant other than an applicant who applies under Article 4571a, Revised Statutes, and its subsequent amendments.

(b) Rules adopted under this article shall establish the criteria for issuance of a temporary license and shall establish a maximum period during which a temporary license is valid.

SECTION 12. Subsections (a) and (b), Article 4573, Revised Statutes, are amended to read as follows:

(a) The Board shall maintain an information file about each complaint filed with the Board [relating to a licensee]. If a written complaint is filed with the Board [relating to a licensee], the Board, at least [as frequently as] quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint [until final disposition] unless the notification would jeopardize an undercover investigation.

(b) The Board shall revoke or suspend a license, place on probation a person whose license has been suspended [probate a license suspension], or reprimand a licensee for violation of the law regulating the practice of podiatry or a rule adopted by the Board. If a license suspension is probated, the Board may require the license holder to:

(1) report regularly to the Board on matters that are the basis of the probation;

(2) limit practice to the areas prescribed by the Board; or

(3) continue or review continuing professional education until the license holder attains a degree of skill satisfactory to the Board in those areas that are the basis of the probation.

SECTION 13. Chapter 11, Title 71, Revised Statutes, is amended by adding Article 4573c to read as follows:

Art. 4573c. COMPLAINT PROCEDURE. (a) The board's information file under Subsection (a), Article 4573, Revised Statutes, and its subsequent amendments, shall be kept current and contain a record for each complaint of:

- (1) all persons contacted in relation to the complaint;
- (2) a summary of findings made at each step of the complaint process;
- (3) an explanation of the legal basis and reason for a complaint that is dismissed; and
- (4) other relevant information.

(b) The board by rule shall adopt a form to standardize information concerning complaints made to the board. The board by rule shall prescribe information to be provided to a person when the person files a complaint with the board.

(c) The board shall provide reasonable assistance to a person who wishes to file a complaint with the board.

(d) The board shall adopt rules concerning the investigation of a complaint filed with the board. The rules adopted under this subsection shall:

- (1) distinguish between categories of complaints;
- (2) ensure that complaints are not dismissed without appropriate consideration;
- (3) require that the board be advised of a complaint that is dismissed and that a letter be sent to the person who filed the complaint explaining the action taken on the dismissed complaint;
- (4) ensure that the person who filed the complaint has an opportunity to explain the allegations made in the complaint; and
- (5) prescribe guidelines concerning the categories of complaints that require the use of a private investigator and the procedures for the board to obtain the services of a private investigator.

(e) The board shall dispose of all complaints in a timely manner. The board shall establish a schedule for conducting each phase of a complaint that is under the control of the board not later than the 30th day after the date the complaint is received by the board. The schedule shall be kept in the information file for the complaint and all parties shall be notified of the projected time requirements for pursuing the complaint. A change in the schedule must be noted in the complaint information file and all parties to the complaint must be notified not later than the seventh day after the date the change is made.

(f) The executive director shall notify the board of a complaint that extends beyond the time prescribed by the board for resolving the complaint so that the board may take necessary action on the complaint.

SECTION 14. Chapter 11, Title 71, Revised Statutes, is amended by adding Article 4573d to read as follows:

Art. 4573d. INFORMAL PROCEEDINGS. (a) The board by rule shall adopt procedures governing:

(1) informal disposition of a contested case under Section 13(e), Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes), and its subsequent amendments; and

(2) informal proceedings held in compliance with Section 18(c), Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes), and its subsequent amendments.

(b) Rules adopted under this article must provide the complainant and the licensee an opportunity to be heard and must require the presence of a representative of the office of the attorney general or the board's legal counsel to advise the board or the board's employees.

SECTION 15. Chapter 11, Title 71, Revised Statutes, is amended by adding Article 4573e to read as follows:

Art. 4573e. COMPLIANCE WITH THIS CHAPTER. The board by rule shall develop a system to monitor a podiatrist's compliance with this chapter. The system shall include:

(1) procedures for determining the compliance by a podiatrist with an order issued by the board; and

(2) a method of identifying and monitoring podiatrists who represent a risk to the public.

SECTION 16. Chapter 11, Title 71, Revised Statutes, is amended by adding Article 4573c to read as follows:

Art. 4573c. PODIATRIC PEER REVIEW COMMITTEES

Sec. 1. In this article:

(1) "Podiatric peer review committee" means the podiatric peer review, judicial, or grievance committee of a podiatric medical society or association that is authorized to evaluate the quality of podiatry services or the competence of a podiatrist. A podiatric peer review committee includes the members, employees, and agents of the committee.

(2) "Podiatric medical society or association" means a membership organization of podiatrists that is incorporated under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes) and its subsequent amendments or that is exempt from the payment of federal income taxes under Section 501(c) of the Internal Revenue Code of 1986 (26 U.S.C. Section 501(c)) and its subsequent amendments.

Sec. 2. Except for an action involving fraud, conspiracy, or malice, a podiatric peer review committee is immune from liability and may not be subject to a suit for damages for any act arising from the performance of the committee's duties in investigating a disagreement or complaint, holding a hearing to determine facts, or making an evaluation, recommendation, decision, or award involving a podiatrist who is a member of the podiatric medical society or association or another podiatrist, podiatric patient, or third party who requests the services of the committee.

Sec. 3. Except as otherwise provided by this article, the proceedings and records of a podiatric peer review committee are confidential and all communications made to a podiatric peer review committee are privileged. However, if a judge makes a preliminary finding that the proceedings, records, or communications of a podiatric peer review committee are relevant to an anticompetitive action or to an action brought under federal

civil rights laws, the proceedings, records, or communications are not considered to be confidential to the extent the proceedings, records, or communications are determined to be relevant to that action.

Sec. 4. Written or oral communications made to a podiatric peer review committee and the records and proceedings of a peer review committee may be disclosed to:

- (1) another podiatric peer review committee;
- (2) an appropriate state or federal agency;
- (3) a national accreditation body; or

(4) the Texas State Board of Podiatry Examiners or the state board of registration or licensure of podiatrists in another state.

Sec. 5. (a) The disclosure of confidential podiatric peer review committee information to the affected podiatrist that is relevant to the matter under review by the committee does not constitute a waiver of the confidentiality provisions of this article.

(b) If a podiatric peer review committee takes action that could result in censure or suspension, restriction, limitation, or revocation of a license by the Texas State Board of Podiatry Examiners or a denial of membership or privileges in a health care entity, the affected podiatrist shall be provided a written copy of the recommendation of the podiatric peer review committee and a copy of the final decision, including a statement of the basis for the decision.

Sec. 6. (a) Unless disclosure is required or authorized by law, the records or determinations of a podiatric peer review committee or communications made to a podiatric peer review committee are not subject to subpoena or discovery and are not admissible as evidence in a civil or administrative proceeding. However, a committee may in writing waive the privilege of confidentiality.

(b) The evidentiary privilege under this article may be invoked by any person or organization in a civil or administrative proceeding unless the person or organization has secured a waiver of the privilege executed in writing by the chairman, vice-chairman, or secretary of the affected podiatric peer review committee.

(c) If a podiatric peer review committee, a person participating in peer review, or an organization named as a defendant in any civil action filed as a result of participating in peer review is permitted to use confidential information in the defendant's defense or in a claim or suit under Section 9 of this article, the plaintiff in that proceeding also may disclose the records or determinations of a peer review committee or communications made to a peer review committee to rebut the defendant.

(d) A person who seeks access to privileged information must plead and prove waiver of the privilege.

(e) A member, employee, or agent of a podiatric peer review committee who provides access to otherwise privileged communications or records in cooperation with a law enforcement authority in a criminal investigation has not waived any privilege established under this article.

Sec. 7. (a) All persons, including the governing body and medical staff of a health care entity, shall comply with a subpoena issued by the Texas State Board of Podiatry Examiners for documents or information,

(b) The disclosure of documents or information under a subpoena does not constitute a waiver of the confidentiality privilege associated with a podiatric peer review committee proceeding.

(c) Failure to comply with a subpoena constitutes grounds for disciplinary action against the facility or individual by the Texas State Board of Podiatry Examiners.

Sec. 8. A person, health care entity, or podiatric peer review committee that participates in podiatric peer review activity or furnishes records, information, or assistance to a podiatric peer review committee or to the Texas State Board of Podiatry Examiners is immune from any civil liability arising from those acts if the acts were made in good faith and without malice.

Sec. 9. A podiatric peer review committee, a person participating in peer review, or another entity named as a defendant in any civil action filed as a result of the defendant's participation in peer review may file a counterclaim in the pending action or may prove a cause of action in a subsequent suit to recover defense costs, including court costs, attorney's fees, and damages incurred as a result of the civil action, if the plaintiff's original suit is determined to be frivolous or to have been brought in bad faith.

SECTION 17. Subsection (a), Article 4574, Revised Statutes, is amended to read as follows:

(a) The board by rule shall establish reasonable and necessary fees so that the fees, in the aggregate, produce sufficient revenue to cover the cost of administering this chapter. The fees set by the board may be adjusted so that the total fees collected are sufficient to meet the expenses of administering this chapter. The board may not set a fee for an amount less than the amount of that fee on September 1, 1993, [for the administration of this article in amounts not to exceed:

<u>[1. Examination</u>	<u>\$500</u>
<u>[2. Recexamination</u>	<u>500</u>
<u>[3. Renewal</u>	<u>200</u>
<u>[4. Duplicate license</u>	<u>50]</u>

SECTION 18. Article 4575c, Revised Statutes, is amended to read as follows:

Art. 4575c. CONSUMER INFORMATION. (a) The board shall prepare information of public [consumer] interest describing the [regulatory] functions of the board and the board's procedures by which [consumer] complaints are filed with and resolved by the board. The board shall make the information available to the [general] public and appropriate state agencies.

(b) The board by rule shall establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the board for the purpose of directing complaints to the board. The board may provide for that notification:

(1) on each registration form, application, or written contract for services of an individual or entity regulated under this chapter;

(2) on a sign prominently displayed in the place of business of each individual or entity regulated by the board; or

~~(3) in a bill for service provided by an individual or entity regulated by the board [Each written contract for services in this state of a licensed podiatrist shall contain the name, mailing address, and telephone number of the board].~~

~~(c) The board shall list along with its regular telephone number the toll-free telephone number that may be called to present a complaint about a health professional if the toll-free number is established under other state law [There shall at all times be prominently displayed in the place of business of each licensed podiatrist a sign containing the name, mailing address, and telephone number of the board and a statement informing consumers that complaints against licensees may be directed to the board].~~

SECTION 19. Subsection (j), Article 4569, Revised Statutes, and Subsection (g), Article 4570, Revised Statutes, are repealed.

SECTION 20. A contested case pending before the Texas State Board of Podiatry Examiners on the effective date of this Act is transferred to the State Office of Administrative Hearings and actions taken in the proceeding are treated as if taken by the State Office of Administrative Hearings.

SECTION 21. The changes in law made by Section 3 of this Act relating to the requirements for membership on the Texas State Board of Podiatry Examiners apply only to an appointment made on or after the effective date of this Act, and do not affect the entitlement of a member serving on the board on the effective date of this Act to continue to hold office for the remainder of the term for which the person was appointed.

SECTION 22. This Act takes effect September 1, 1993.

SECTION 23. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Floor Amendment No. 1

Amend C.S.S.B. 1080 as follows:

(1) Amend line 15 on page 1 by deleting "chiropracist," and "pedicurist,"; and

(2) Amend line 7 on page 27 by adding "brochure," after "application,".

The amendments were read.

On motion of Senator Harris of Dallas and by unanimous consent, the Senate concurred in the House amendments to S.B. 1080 by a viva voce vote.

SENATE JOINT RESOLUTION 44 WITH HOUSE AMENDMENT

Senator Harris of Dallas called S.J.R. 44 from the President's table for consideration of the House amendment to the resolution.

The President laid the resolution and the House amendment before the Senate.

Amendment

Amend S.J.R. 44 by substituting in lieu thereof the following:

A JOINT RESOLUTION

proposing a constitutional amendment relating to the total principal amount of bonds and notes authorized to be issued or sold for the support of the Texas agricultural fund.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article III, Section 49-i(b), of the Texas Constitution is amended to read as follows:

(b) The total principal amount of bonds and notes that may be issued or sold ~~[outstanding at one time]~~ may not exceed \$100 ~~[\$25]~~ million for the Texas agricultural fund and \$5 million for the rural microenterprise development fund.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held on November 2, 1993. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment authorizing up to a total of \$100 million in bonds and notes to be issued or sold to finance the Texas agricultural fund for providing financial assistance to develop, increase, improve, or expand the production, processing, marketing, or export of crops or products grown or produced primarily in this state by agricultural businesses domiciled in the state."

The amendment was read.

Senator Harris of Dallas moved to concur in the House amendment to S.J.R. 44.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Barrientos.

Absent-excused: Leedom.

SENATE BILL 781 WITH HOUSE AMENDMENT

Senator Whitmire called S.B. 781 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Committee Amendment No. 1

Amend S.B. 781 as follows:

(1) On page 1, line 11 strike all of Subsection (b), and insert the following:

(b) Except as provided herein, a deputy sheriff may not be suspended, discharged, or subjected to any other form of employment discrimination because the deputy sheriff refuses to take a polygraph examination. Discipline may be given to a deputy sheriff who refuses to take a polygraph examination if such deputy sheriff is the subject of a complaint and the complainant against such deputy sheriff has, in the course of the

department's investigation of the complaint, previously taken and successfully passed a polygraph examination.

The amendment was read.

Senator Whitmire moved to concur in the House amendment to S.B. 781.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Leedom.

SENATE BILL 1285 WITH HOUSE AMENDMENTS

Senator Ellis called S.B. 1285 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Amendment

Amend S.B. 1285 by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to the forfeiture of certain property used in violations of the Texas Litter Abatement Act.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subdivisions (1) and (2), Article 59.01, Code of Criminal Procedure, are amended to read as follows:

(1) "Attorney representing the state" means the prosecutor with felony jurisdiction in the county in which a forfeiture proceeding is held under this chapter or, in a proceeding for forfeiture of contraband as defined under Subdivision (2)(B)(iv) of this article, the city attorney of a municipality if the property is seized in that municipality by a peace officer employed by that municipality and the governing body of the municipality has approved procedures for the city attorney acting in a forfeiture proceeding.

(2) "Contraband" means property of any nature, including real, personal, tangible, or intangible, that is:

(A) used in the commission of:

(i) any first or second degree felony under the Penal Code;

(ii) any felony under Chapters 29, 30, 31, or 32, Penal Code; or

(iii) any felony under The Securities Act (Article 581-1 et seq., Vernon's Texas Civil Statutes);

(B) used or intended to be used in the commission of:

(i) any felony under Chapter 481, Health and Safety Code (Texas Controlled Substances Act);

(ii) any felony under Chapter 483, Health and Safety Code; [or]

(iii) a felony under Article 350, Revised Statutes;
or

(iv) a Class A misdemeanor under Subchapter B, Chapter 365, Health and Safety Code, if the defendant has been previously convicted twice of an offense under that subchapter;

(C) the proceeds gained from the commission of a felony listed in Paragraph (A) or (B) of this subdivision; or

(D) acquired with proceeds gained from the commission of a felony listed in Paragraph (A) or (B) of this subdivision.

SECTION 2. Article 59.02, Code of Criminal Procedure, is amended by adding Subsection (g) to read as follows:

(g) The forfeiture provisions of this chapter apply to contraband as defined by Article 59.01(2)(B)(iv) only in a municipality with a population of 250,000 or more.

SECTION 3. Section 365.012, Health and Safety Code, is amended by adding Subsection (h) to read as follows:

(h) On conviction for an offense under this section, the court shall provide to the defendant written notice that a subsequent conviction for an offense under this section may result in the forfeiture under Chapter 59, Code of Criminal Procedure, of the vehicle used by the defendant in committing the offense.

SECTION 4. (a) The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before that date.

(b) An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

SECTION 5. This Act takes effect September 1, 1993.

SECTION 6. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Floor Amendment No. 1

Amend C.S.S.B. 1285 by adding on page 3, line 3, a new Section 4 to read as follows:

SECTION 4. Chapter 365, Texas Health and Safety Code, is amended by adding Section 365.017 to read as follows:

SECTION 365.017. REGULATION OF LITTER IN CERTAIN COUNTIES.

a. The commissioners court of a county with a population of one million or more may adopt regulations to control the disposal of litter and the removal of illegally dumped litter from private property in unincorporated areas of that county.

b. Prior to the adoption of regulations the commissioners court of a county must find that the proposed regulations are necessary to promote the public health, safety and welfare of the residents of that county.

c. The definitions of Section 365.011, Health & Safety Code apply in this act. "Illegally dumped litter" means litter dumped anywhere other than in an approved solid waste site. "Litter" has the meaning assigned by Section 365.011 except that the term does not include equipment used for agricultural purposes.

d. The regulations adopted by commissioners court may require the record property owners to pay for the cost of removal after the commissioners court has given the record property owner thirty days written notice to remove the illegally dumped litter.

e. Regulations adopted under this section are in addition to any other law regarding this issue and the stricter law shall apply.

f. In addition to any other remedy provided by law, a district attorney, a county attorney, or the attorney general may bring a civil suit to enjoin violation of regulations adopted under this section and to recover the costs of removal of illegally dumped litter. In such a suit the prevailing party may recover its reasonable attorneys fees, court fees and reasonable investigative costs incurred in relation to that proceeding.

Renumber the remaining sections accordingly.

The amendments were read.

On motion of Senator Ellis and by unanimous consent, the Senate concurred in the House amendments to S.B. 1285 by a viva voce vote.

SENATE BILL 1424 WITH HOUSE AMENDMENTS

Senator Parker called S.B. 1424 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Amendment

Amend S.B. 1424 by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to the regulation of psychologists and to the continuation of the Texas State Board of Examiners of Psychologists; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 2(c), Psychologists' Certification and Licensing Act (Article 4512c, Vernon's Texas Civil Statutes), is amended to read as follows:

(c) The term "psychological services," means acts or behaviors coming within the purview of the practice of psychology. The practice of psychology is an offering to the public or rendering to individuals or groups any service, including computerized procedures, that involves but is not restricted to the application of established principles, methods, and procedures of describing, explaining, and ameliorating behavior. The practice of psychology addresses normal behavior and the evaluation, prevention, and remediation of psychological, emotional, mental,

interpersonal, learning, and behavioral disorders of individuals and groups, as well as the psychological concomitants of medical problems, organizational structures, stress, and health. The practice of psychology includes the use of projective techniques, neuropsychological testing, counseling, career counseling, psychotherapy, hypnosis for health care purposes, hypnotherapy, and biofeedback and the evaluation and treatment of mental or emotional disorders and disabilities. The practice of psychology is based on a systematic body of knowledge and principles acquired in an organized program of graduate study and on the standards of ethics established by the profession.

SECTION 2. Section 4(c), Psychologists' Certification and Licensing Act (Article 4512c, Vernon's Texas Civil Statutes), is amended to read as follows:

(c) Appointments to the Board shall be made without regard to the race, ethnicity [~~creed~~], disability, sex, sexual orientation, religion, age, socioeconomic status, or national origin of the appointees.

SECTION 3. Section 4a, Psychologists' Certification and Licensing Act (Article 4512c, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 4a. SUNSET PROVISION. The Texas State Board of Examiners of Psychologists is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the Board is abolished and this Act expires September 1, 2005 [~~1993~~].

SECTION 4. Sections 5(b), (c), (d), (e), (g), and (h), Psychologists' Certification and Licensing Act (Article 4512c, Vernon's Texas Civil Statutes), are amended to read as follows:

(b) Four [~~Six~~] members must be persons licensed or certified as psychologists under this Act, who have engaged in independent practice, teaching, or research in psychology for a period of at least five years. To assure adequate representation of the diverse fields of psychology, the governor shall so make his appointments that at least two of these members are engaged in rendering services in psychology, at least one of these members is engaged in research in psychology, and at least one of these members is a member of the faculty of a training institution in psychology.

(c) Two members [~~One member~~] must be licensed [~~certified~~] as [a] psychological associates [~~associate~~] under this Act for at least five years.

(d) Three [~~Two~~] members must be representatives of the general public. A person is not eligible for appointment as a public member of the Board if the person or the person's spouse:

(1) is registered, certified, or licensed by an occupational regulatory agency in the field of health services [~~care~~];

(2) is employed by or participates in the management of a business entity or other organization regulated by the Board or receiving funds from the Board [~~that provides health-care services or that sells, manufactures, or distributes health-care supplies or equipment~~]; [or]

(3) owns or [;] controls, [~~or has~~] directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by the Board or receiving funds from the Board; or

(4) uses or receives a substantial amount of tangible goods, services, or funds from the Board, other than compensation or reimbursement authorized by law for Board membership, attendance, or expenses [that provides health-care services or that sells, manufactures, or distributes health-care supplies or equipment].

(e)(1) It is a ground for removal from the Board if a member:

(A) [(1)] does not have at the time of appointment the qualifications required by Subsection (a), (b), (c), or (d) of this section [for appointment to the Board];

(B) [(2)] does not maintain during the service on the Board the qualifications required by Subsection (a), (b), (c), or (d) of this section [for appointment to the Board];

(C) [(3)] violates a prohibition established by Subsection (g) or (h) of this section; [or]

(D) cannot discharge the member's duties for a substantial part of the term for which the member is appointed because of illness or disability; or

(E) is absent from more than half [(4) does not attend at least one-half] of the regularly scheduled Board meetings that the member is eligible to attend during [held by the Board in] a calendar year unless the absence is excused by a majority vote[; excluding meetings held while the person was not a member] of the Board.

(2) The validity of an action of the Board is not affected by the fact that it is taken when a ground for removal of a Board member exists.

(3) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the governor and the attorney general that a potential ground for removal exists.

(g)(1) An [A member or employee of the Board may not be an] officer, employee, or paid consultant of a Texas trade association in the [psychology] field of health services may not be a member or employee of the Board who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule.

(2) A person who is the spouse of an officer, manager, or paid consultant of a Texas trade association in the field of health services may not be a Board member and may not be an employee of the Board who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule.

(3) For the purposes of this subsection, a Texas trade association is a nonprofit, cooperative, and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest[. — A member or employee of the Board may not be related within the second degree by affinity or within the second degree by consanguinity, as determined under Article 5996h, Revised Statutes, to a person who is an officer, employee, or paid consultant of a trade association in the regulated industry].

(h) A person ~~[who is required to register as a lobbyist under Chapter 305, Government Code,]~~ may not serve as a member of the board or act as the general counsel to the Board if the person is required to register as a lobbyist under Chapter 305, Government Code, and its subsequent amendments, because of the person's activities for compensation on behalf of a profession related to the operation of the Board.

SECTION 5. Section 7, Psychologists' Certification and Licensing Act (Article 4512c, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 7. ORGANIZATION AND MEETINGS OF THE BOARD. (a) The Board shall hold a regular annual meeting at which it shall select from its members a chairperson and a vice-chairperson. Other regular meetings shall be held at such times as the rules of the Board may provide but not less than two times a year. Special meetings may be held at such times as may be deemed necessary or advisable by the Board or a majority of its members. Reasonable notice of all meetings shall be given in the manner prescribed by the rules of the Board. A quorum of the Board shall consist of a majority of its members.

(b) The executive director of the Board shall be employed by the Board and shall hold that position at the pleasure of the Board. The Board may employ such other persons as it deems necessary or desirable, including investigators, lawyers, consultants, and administrative staff, to carry out the provisions of this Act.

(c) The Board shall develop and implement policies that clearly define the respective responsibilities of the Board and the staff of the Board.

(d) The Board shall adopt and have an official seal.

SECTION 6. Sections 8(c), (d), (e), (j), (k), and (l), Psychologists' Certification and Licensing Act (Article 4512c, Vernon's Texas Civil Statutes), are amended to read as follows:

(c) The Board shall prepare information of public [consumer] interest describing the [regulatory] functions of the Board and [describing] the Board's procedures by which [consumer] complaints are filed with and resolved by the Board. The Board shall make information available to the [general] public and appropriate state agencies.

(d) The Board by rule shall establish methods by which consumers and service recipients are notified of [Each written contract for services in this state of a licensed or certified psychologist must contain] the name, mailing address, and telephone number of the Board for the purpose of directing complaints to the Board. The Board may provide for that notification:

(1) on each registration form, application, or written contract for services of an individual or entity regulated by the Board;

(2) on a sign prominently displayed in the place of business of each individual or entity regulated by the Board; or

(3) in a bill for service provided by an individual or entity regulated by the Board.

(e) The Board shall list along with its regular telephone number the toll-free telephone number that may be called to present a complaint about a health professional if the toll-free number is established under other state

~~law [There shall at all times be prominently displayed in the place of business of each licensee regulated under this Act a sign containing the name, mailing address, and telephone number of the Board and a statement informing consumers that complaints against licensees can be directed to the Board].~~

(j) The Board shall establish mandatory ~~[may recognize, prepare, or administer]~~ continuing education programs for persons regulated by the Board under this Act. The Board by rule shall establish a minimum number of hours of continuing education required to renew a license or certificate under this Act. The Board may assess the continuing education needs of license or certificate holders and may require license or certificate holders to attend continuing education courses specified by the Board. The Board by rule shall develop a process to evaluate and approve continuing education courses. The Board shall identify the key factors for the competent performance by a license or certificate holder of the license or certificate holder's professional duties. The Board shall adopt a procedure to assess a license or certificate holder's participation in continuing education programs [Participation in the programs is voluntary].

(k) The executive director or the executive director's designee [Board] shall develop an intraagency career ladder program~~[-one part of which shall be the intraagency posting of each job opening with the Board in a nonentry level position].~~ The program shall require intraagency postings of all nonentry level positions concurrently with [posting shall be made at least 10 days before] any public posting [is made].

(l) The executive director or the executive director's designee [Board] shall develop a system of annual performance evaluations ~~[of the Board's employees based on measurable job tasks].~~ All [Any] merit pay for Board employees must [authorized by the Board shall] be based on the system established under this subsection.

SECTION 7. The Psychologists' Certification and Licensing Act (Article 4512c, Vernon's Texas Civil Statutes), is amended by adding Sections 8A, 8B, 8C, and 8D to read as follows:

Sec. 8A. EQUAL EMPLOYMENT OPPORTUNITY POLICIES. (a) The executive director or the executive director's designee shall prepare and maintain a written policy statement to ensure implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, application, training, and promotion of personnel that are in compliance with the Commission on Human Rights Act (Article 5221k, Vernon's Texas Civil Statutes) and its subsequent amendments;

(2) a comprehensive analysis of the Board work force that meets federal and state guidelines;

(3) procedures by which a determination can be made of significant underuse in the Board work force of all persons for whom federal or state guidelines encourage a more equitable balance; and

(4) reasonable methods to appropriately address those areas of underuse.

(b) A policy statement prepared under Subsection (a) of this section must cover an annual period, be updated annually, be reviewed by the Commission on Human Rights for compliance with Subsection (a)(1) of this section, and be filed with the governor's office.

(c) The governor's office shall deliver a biennial report to the legislature based on the information received under Subsection (b) of this section. The report may be made separately or as part of other biennial reports to the legislature.

Sec. 8B. PUBLIC PARTICIPATION IN BOARD HEARINGS. The Board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the Board and to speak on any issue under the jurisdiction of the Board.

Sec. 8C. PROGRAM ACCESSIBILITY. The Board shall prepare and maintain a written plan that describes how a person who does not speak English can be provided reasonable access to the Board's programs. The Board shall also comply with federal and state laws for program and facility accessibility.

Sec. 8D. TRAINING AND GUIDELINES FOR MEMBERS OF THE BOARD. (a) The Board shall establish a training program for the members of the Board.

(b) Before a member of the Board may assume the member's duties and before the member may be confirmed by the senate, the member must complete at least one course of the training program established under this section.

(c) A training program established under this section shall provide information to a participant regarding:

(1) the enabling legislation that created the Board to which the member is appointed;

(2) the programs operated by the Board;

(3) the role and functions of the Board;

(4) the rules of the Board with an emphasis on the rules that relate to disciplinary and investigatory authority;

(5) the current budget for the Board;

(6) the results of the most recent formal audit of the Board;

(7) the requirements of the:

(A) open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252-17, Vernon's Texas Civil Statutes);

(B) open records law, Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-17a, Vernon's Texas Civil Statutes); and

(C) Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes);

(8) the requirements of the conflict of interest laws and other laws relating to public officials; and

(9) any applicable ethics policies adopted by the Board or the Texas Ethics Commission.

(d) In developing the training requirements provided for in this section, the Board shall consult with the governor's office, attorney general's office, and Texas Ethics Commission.

(e) If another state agency or entity is given the authority to establish the training requirements, the Board shall allow that training in lieu of developing the Board's program.

SECTION 8. Section 9, Psychologists' Certification and Licensing Act (Article 4512c, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 9. RECEIPTS AND DISBURSEMENTS. ~~All money paid to the Board [The executive director of the Board shall receive and account for all monies derived] under this Act[. The executive director] shall be deposited in the state treasury [pay these monies weekly to the State Treasurer who shall keep them in a separate fund to be known as the "Psychologists Licensing Fund." Monies may be paid out of this fund only by warrant drawn by the State Comptroller upon the State Treasurer, upon itemized voucher, approved by the chairperson of the Board or the executive director of the Board. The financial transactions of the Psychologists Licensing Fund are subject to audit by the Auditor of the State of Texas in accordance with Chapter 321, Government Code. The executive director of the Board shall give a surety bond for the faithful performance of his duties to the governor in the sum of Ten Thousand Dollars (\$10,000.00) or an amount recommended by the State Auditor. The premium for this bond shall be paid out of the Psychologists Licensing Fund. The Board may make expenditures from this fund for any purpose which is reasonably necessary to carry out the provisions of this Act, including the advance payment of an amount not to exceed 80 percent of the travel expenses of a witness called by the Board to testify on the Board's behalf].~~

SECTION 9. Section 10, Psychologists' Certification and Licensing Act (Article 4512c, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 10. ANNUAL REPORT OF THE BOARD. ~~The [As soon as practicable after the close of each fiscal year, the] Board shall file annually with [submit a report to] the governor and the presiding officer of each House of the Legislature a complete and detailed written report accounting for all funds received and disbursed by [concerning the work of] the Board during the preceding fiscal year. The annual report must be in the form and reported in the time provided by the General Appropriations Act.~~

SECTION 10. Section 11, Psychologists' Certification and Licensing Act (Article 4512c, Vernon's Texas Civil Statutes), is amended by amending Subsection (d) and adding Subsection (e) to read as follows:

(d) In addition to the requirements of Subsection (b) or (c) of this section, the applicant must meet the following qualifications:

- (1) the applicant has attained the age of majority;
- (2) the applicant is of good moral character;
- (3) in the judgment of the Board, the applicant is physically and mentally competent to render psychological services with reasonable skill and safety and is afflicted with no disease or condition, either mental or

physical, which would impair competency to render psychological services; and

(4) the applicant:

(A) has not been convicted of a felony or a crime involving moral turpitude;

(B) does not use drugs or intoxicating liquors to an extent that affects the applicant's professional competency;

(C) has not been guilty of fraud or deceit in making the application;

(D) except as provided by Section 15B of this Act, has not aided or abetted a person, not a licensed psychologist, in representing that person as a psychologist in this state;

(E) except as provided by Section 15B of this Act, has not represented himself or herself to be a psychologist licensed in this state at a time he or she was not licensed to practice psychology in this state, or practiced psychology in this state without a license to practice psychology in this state.[?]

(e) Approval of an applicant to take the examination for certification shall be made without regard to the age, sex, race, ethnicity, national origin, religion, sexual orientation, disability, or socioeconomic status of the applicant.

SECTION 11. Section 14(a), Psychologists' Certification and Licensing Act (Article 4512c, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) The Board shall administer examinations to qualified applicants for certification at least once a year. The Board shall have the written portion of the examination, if any, validated by an independent testing professional. The Board shall determine the subject and scope of the examinations and establish appropriate fees for examinations administered. Part of the examinations shall test applicant knowledge of the discipline and profession of psychology and part shall test applicant knowledge of the laws and rules governing the profession of psychology in this state. This latter part of the examination is to be known as the Board's jurisprudence examination. An applicant who fails his examination may be reexamined at intervals specified by the Board upon payment of another examination fee corresponding to the examination failed.

SECTION 12. Section 15A, Psychologists' Certification and Licensing Act (Article 4512c, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 15A. Endorsement [Reciprocity]. (a) The Board may grant a provisional license or certificate to an [An] applicant [is entitled to certification or licensure] on submission to the Board of an application in the form prescribed by the Board and payment of the required application fees if:

(1) the individual is licensed, certified, or registered as a psychologist or psychological associate by another state, the District of Columbia, or a commonwealth or territory of the United States and is in good standing with the regulatory agency of that jurisdiction;

(2) the requirements for licensing, certification, or registration in the other jurisdiction are substantially equal to those prescribed by this Act;

(3) ~~the individual has engaged in the practice of psychology for not less than five years on the date of application for certification; and~~

~~[(4)] the individual has passed a national or other [the Board's jurisprudence] examination recognized by the Board relating to psychology; and~~

~~(4) the individual is sponsored by a person licensed or certified by the Board under this Act with whom the provisional license or certificate holder may practice under this section.~~

~~(b) An applicant for a provisional license or certificate may be excused from the requirement of Subsection (a)(4) of this section if the Board determines that compliance with that subsection constitutes a hardship to the applicant.~~

~~(c) A provisional license or certificate is valid until the date the Board approves or denies the provisional license or certificate holder's application for a license or certificate. The Board shall issue a license or certificate under this Act to the holder of a provisional license or certificate under this section if:~~

~~(1) the provisional license or certificate holder passes the examination required by Section 14 of this Act;~~

~~(2) the Board verifies that the provisional license or certificate holder has the academic and experience requirements for a license or certificate under this Act; and~~

~~(3) the provisional license or certificate holder satisfies any other license or certification requirements under this Act.~~

~~(d) The Board must complete the processing of a provisional license or certificate holder's application for a license or certificate not later than the 180th day after the date the provisional license or certificate is issued.~~

~~(e) The Board may adopt rules for the provisional certification or licensing of an individual who holds a valid license or the equivalent from another country.~~

SECTION 13. Section 15B, Psychologists' Certification and Licensing Act (Article 4512c, Vernon's Texas Civil Statutes), is amended to read as follows:

~~Sec. 15B. Reciprocity [Temporary permit]. The Board may enter into and implement agreements for reciprocal licensing with other jurisdictions if the requirements for licensing, certification, or registration in the other jurisdiction are substantially equal to those prescribed by this Act [(a) An applicant for certification or licensure by reciprocity under Section 15A of this Act may apply for a temporary permit to authorize the applicant to practice psychology in this state:~~

~~[(b) A person may apply for a temporary permit by completing an application and paying a temporary permit fee prescribed by the Board:~~

~~[(c) The board shall adopt rules for the issuance of temporary permits:~~

~~[(d) A temporary permit issued under this section does not constitute a vested property right].~~

SECTION 14. Section 16, Psychologists' Certification and Licensing Act (Article 4512c, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 16. FEES. (a) ~~The [fees shall be fixed by the] Board by rule shall establish fees~~ in amounts that are reasonable and necessary to produce sufficient revenue to cover the costs of administering this Act.

(b) ~~The fees set by the Board may be adjusted so that the total fees collected are sufficient to meet the expenses of administering this Act. The Board may not set a fee for an amount less than the amount of that fee on September 1, 1993 [The Board shall not maintain unnecessary fund balances, and fee amount shall be set in accordance with this requirement].~~

SECTION 15. Sections 17(b), (c), and (h), Psychologists' Certification and Licensing Act (Article 4512c, Vernon's Texas Civil Statutes), are amended to read as follows:

(b) ~~[Certificates and licenses will be renewed no less than once every two years.]~~ Unless otherwise provided by board rule, certificates and licenses expire on December 31st in the ~~[appropriate]~~ year following their issuance or renewal and are invalid thereafter unless renewed. The Board by rule may adopt a system under which certificates or licenses expire on various dates during the year. For the year in which the expiration date is changed, certification or licensing fees shall be prorated so that each certificate or license holder must pay only that portion of the fee that is allocable to the number of months during which the certificate or license is valid. On renewal of the certificate or license on the new expiration date, the full certification or licensing fee is payable.

(c) ~~[The Board shall notify every person certified or licensed under this Act of the date of expiration of his certificate or license and the amount of the renewal fee:]~~ A person may renew an unexpired certificate or license by paying to the Board before the expiration date of the certificate or license the required renewal fee. If a person's certificate or license has been expired for ~~[not longer than]~~ 90 days ~~or less~~, the person may renew the certificate or license by paying to the Board the required renewal fee and a fee that is one-half of the examination fee for the certificate or license. If a person's certificate or license has been expired for longer than 90 days but less than one year ~~[two years]~~, the person may renew the certificate or license by paying to the Board all unpaid renewal fees and a fee that is equal to the examination fee for the certificate or license. If a person's certificate or license has been expired for one year ~~[two years]~~ or longer, the person may not renew the certificate or license. The person may obtain a new certificate or license by submitting to reexamination and complying with the requirements and procedures for obtaining an original certificate or license. However, the Board may renew without reexamination an expired license or certificate of a person who was licensed or certified in this state, moved to another state, and is currently licensed or certified and has been in practice in the other state for the two years preceding application. The person must pay to the Board a fee that is equal to the examination fee for the license or certificate. At least 30 days before the expiration of a person's license or certificate, the Board shall send written notice of the impending license or certificate

expiration to the person at the license or certificate holder's last known address according to the records of the Board.

(h) The renewal of licenses [certificates] held by psychological associates as established by Section 19 of this Act is subject to the renewal procedures prescribed by this section except that the licenses [certificates] expire May 31st in the appropriate year following their issuance or renewal, unless otherwise provided by board rule. The Board by rule may adopt a system under which licenses [certificates] expire on various dates during the year. For the year in which the expiration date is changed, license [certification] fees shall be prorated so that each license [certificate] holder must pay only that portion of the fee that is allocable to the number of months during which the license [certificate] is valid. On renewal of the license [certificate] on the new expiration date, the full license [certification] fee is payable.

SECTION 16. Section 19, Psychologists' Certification and Licensing Act (Article 4512c, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 19. SUB-DOCTORAL LICENSE [CERTIFICATION]. The Board, with the advice of the Psychological Associate Advisory Committee as provided by Section 19A of this Act, shall set standards for qualification and issue licenses [certificates of qualification] for sub-doctoral levels of psychological personnel. Sub-doctoral personnel must have a master's degree in a program that is primarily psychological in nature in an accredited university or college. Sub-doctoral levels shall be designated by a title(s) which includes the adjective "psychological" followed by a noun such as "associate," "assistant," "examiner," "technician," etc.

SECTION 17. The Psychologists' Certification and Licensing Act (Article 4512c, Vernon's Texas Civil Statutes) is amended by adding Section 19A to read as follows:

Sec. 19A. ADVISORY COMMITTEE. (a) The Psychological Associate Advisory Committee is created as an advisory committee to the Board. The committee consists of six members appointed by the governor.

(b) Four members must be licensed psychological associates.

(c) Two members must be members of the general public who are not licensed in the field of health care. To be eligible for appointment as a public member, a person must meet the eligibility requirements for public members of the Board under Section 5 of this Act.

(d) Appointments to the committee shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

(e) A person who is required to register as a lobbyist under Chapter 305, Government Code, and its subsequent amendments, may not serve as a member of the committee.

(f) It is a ground for removal from the committee if a member fails to attend at least one-half of the regularly scheduled committee meetings held in a calendar year.

(g) Members of the advisory committee hold office for staggered terms of six years, with two members' terms expiring February 1 of each odd-numbered year.

(h) The committee shall select its officers to serve in that capacity for a period of one year.

(i) Each member of the committee is entitled to a per diem as set by legislative appropriation for each day that the member engages in the business of the committee.

(j) The advisory committee is subject to:

(1) the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252-17, Vernon's Texas Civil Statutes), and its subsequent amendments;

(2) the open records law, Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-17a, Vernon's Texas Civil Statutes), and its subsequent amendments; and

(3) the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes), and its subsequent amendments.

(k) The advisory committee shall develop and recommend rules to the Board that establish:

(1) the license qualifications for psychological associates;

(2) the supervision requirements for psychological associates practicing less than five years;

(3) the permitted activities and services within the practice of psychological associates;

(4) the schedule of disciplinary sanctions required by Section 23(b) of this Act that apply to psychological associates;

(5) the continuing education requirements for psychological associates;

(6) the proportional billing guidelines for services rendered by psychological associates with less than five years experience; and

(7) the guidelines, including additional educational requirements, for practice without supervision for psychological associates with five or more years of experience.

(l) On receiving the recommendations of the advisory committee, the Board must approve or reject the proposed rules. If the Board does not approve a rule developed by the advisory committee, the Board shall indicate to the advisory committee the reasons that the Board did not approve the rule and return the rule to the advisory committee for further development.

SECTION 18. Section 20, Psychologists' Certification and Licensing Act (Article 4512c, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 20. ~~LICENSE REQUIRED TO PRACTICE [REPRESENTATION AS A PSYCHOLOGIST, PSYCHOLOGICAL ASSOCIATE, OR PSYCHOLOGIST'S ASSISTANT PROHIBITED].~~ ~~Δ [After December 31, 1970, no]~~ person may not engage in the practice of psychology or [shall] represent the person [himself] as a psychologist or psychological associate within the meaning of this Act unless the person [he] is licensed or certified [and registered] under [the provisions of] this Act or is exempt from this Act.

SECTION 19. Section 21(a), Psychologists' Certification and Licensing Act (Article 4512c, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) Any person who practices psychology ~~[offers psychological services]~~ as defined herein for compensation, must apply to the Board and upon payment of a fee shall be granted a license by the Board. No person may be licensed as a psychologist unless:

(1) the person is certified as a psychologist under the authority of this Act; and

(2) the person has had at least two years of supervised experience in the field of psychological services, one year of which may be part of the doctoral program and at least one year of which was after the person's doctoral degree was conferred.

SECTION 20. Section 22, Psychologists' Certification and Licensing Act (Article 4512c, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 22. EXEMPTIONS. Nothing in this Act shall be construed to apply to:

(a) the activities, services and use of official title on the part of a person employed as a psychologist or psychological associate by any: (1) governmental agency, (2) public school district, or (3) regionally accredited institution of higher education provided such employee is performing those duties for which he is employed by such agency, district, or institution and within the confines of such agency, district, or institution insofar as such activities and services are a part of the duties of his office or position as a psychologist or psychological associate with such agency, district, or institution; except that persons employed as psychologists or psychological associates who offer or provide psychological services to the public (other than lecture services) for a fee, monetary or otherwise, over and above the salary that they receive for the performance of their regular duties, and/or persons employed as psychologists or psychological associates by organizations that sell psychological services to the public (other than lecture services) for a fee, monetary or otherwise must be licensed under the provisions of this Act;

(b) the activities and services of a student, intern or resident in psychology, pursuing a course of study in preparation for the profession of psychology under qualified supervision in recognized training institutions or facilities, if these activities and services constitute a part of his supervised course of study, provided that such an individual is designated by a title such as "psychological intern," "psychological trainee," or others clearly indicating such training status;

(c) the activities and services of members of other licensed professions, including physicians, surgeons, attorneys, registered nurses, licensed vocational nurses, occupational therapists, certified social workers, licensed professional counselors, licensed marriage and family therapists, and licensed chemical dependency counselors, if the activities and services are permitted under the applicable license and the members do not represent themselves to be psychologists or describe their services by the use of the term "psychological" ~~[professional groups licensed, certified, or registered by this state, Christian Scientist practitioners who are duly recognized by the Church of Christ Scientist as registered and published in the Christian Science Journal, or duly ordained religions doing work of~~

~~a psychological nature consistent with their training and consistent with any code of ethics of their respective professions, provided that they do not represent themselves by any title or in any manner prohibited by this Act];~~

~~(d) the activities and services of duly recognized members of the clergy who are acting within the members' ministerial capabilities, if the members do not represent themselves to be psychologists or describe their services by the use of the term "psychological";~~

~~(e) the voluntary activities and services of persons employed by or working on the behalf of charitable nonprofit organizations, if the persons do not represent themselves to be psychologists or describe their services by the use of the term "psychological." [persons, other than psychologists licensed or certified under this Act, who hold themselves out to the public as marriage and family therapists or counselors and who provide counseling exclusively related to marriage and family concerns and who hold a master's or doctoral degree in the area of marriage and family therapy from a college or university accredited under a system utilized by the Texas College Coordinating Board and who abide by a code of ethics recognized by their profession];~~

SECTION 21. Section 23, Psychologists' Certification and Licensing Act (Article 4512c, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 23. REVOCATION, CANCELLATION, OR SUSPENSION OF LICENSE OR CERTIFICATION; Civil Penalty. (a) The [Texas State] Board ~~[of Examiners of Psychologists]~~ shall ~~[have the right to cancel;]~~ revoke ~~or~~ suspend a ~~license or~~ ~~[or refuse to renew the]~~ certificate, place on probation a person whose license or certificate has been suspended. ~~[of any psychological associate]~~ or reprimand a license or certificate holder if the license or certificate holder ~~[any psychologist upon proof that the psychologist];~~

(1) has been convicted of a felony or of a violation of the law involving moral turpitude by any court; the conviction of a felony shall be the conviction of any offense which if committed within this state would constitute a felony under the laws of this state; ~~[or]~~

(2) uses drugs or intoxicating liquors to an extent that affects his professional competency; ~~[or]~~

(3) has been guilty of fraud or deceit in connection with his services rendered as a psychologist; ~~[or]~~

(4) except as provided by Section 15B of this Act, has aided or abetted a person, not a licensed psychologist, in representing that person as a psychologist within this state; ~~[or]~~

(5) except as provided by Section 15B of this Act, has represented himself or herself to be a psychologist licensed in this state at a time he or she was not licensed to practice psychology in this state, or practiced psychology in this state without a license to practice psychology in this state; ~~[or]~~

(6) violates a rule adopted ~~[has been guilty of unprofessional conduct as defined by the rules established]~~ by the Board; or

~~(7) violates a provision [for any cause for which the Board shall be authorized to take that action by another section] of this Act.~~

(b) If the Board proposes to refuse a person's application for a license or certification, to suspend or revoke a person's license or certificate, or to reprimand a person, the person is entitled to a hearing before the State Office of Administrative Hearings. The Board by rule shall adopt a broad schedule of sanctions for violations under this Act. The State Office of Administrative Hearings shall use the schedule for any sanction imposed as the result of a hearing conducted by that office [Board].

(c) Proceedings for the refusal, suspension, or revocation of a license or certificate or for the reprimand of a person are governed by the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

(d) An appeal of an action of the Board is governed by the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes). Judicial review of an action of the Board shall be conducted under the substantial evidence rule.

(e) A person who violates this Act or a rule or order adopted by the Board under this Act is liable to the state for a civil penalty of \$1,000 for each day of violation. At the request of the Board, the attorney general shall bring an action to recover a civil penalty authorized under this subsection. A penalty collected under this subsection shall be remitted to the comptroller for deposit in the general revenue fund.

(f) In addition to the other disciplinary actions authorized by this section, the Board may require that a license or certificate holder who violates this Act participate in continuing education programs. The Board shall specify the continuing education programs that may be attended and the number of hours that must be completed by an individual license or certificate holder to fulfill the requirements of this subsection.

(g) If a license or certificate suspension is probated, the Board may require the license or certificate holder to:

(1) report regularly to the Board on matters that are the basis of the probation;

(2) limit practice to the areas prescribed by the Board; or

(3) continue or review continuing professional education until the license or certificate holder attains a degree of skill satisfactory to the Board in those areas that are the basis of the probation. [The Board shall have the right and may, upon majority vote, rule that the order revoking, cancelling, or suspending the psychologist's license or certification be probated so long as the probationer conforms to such orders and rules as the Board may set out as the terms of probation. The Board, at the time of probation, shall set out the period of time which shall constitute the probationary period. Provided further, that the Board may at any time while the probationer remains on probation hold a hearing, and upon majority vote, rescind the probation and enforce the Board's original action in revoking, cancelling, or suspending the psychologist's license or certification, the said hearing to rescind the probation shall be called by the chairperson of the Texas State Board of Examiners of Psychologists who shall cause to be issued a notice setting a time and place for the

~~hearing and containing the charges or complaints against the probationer, said notice to be served on the probationer or the probationer's counsel at least ten (10) days prior to the time set for the hearing. Service of notice of a board action is effected by sending written notice by certified mail to the license holder's address of record. At said hearing the respondent shall have the right to appear either personally or by counsel or both, to produce witnesses or evidence in the behalf of the respondent, to cross-examine witnesses, and to have subpoenas issued by the Board. The Board shall thereupon determine the charges upon their merits. All charges, complaints, notices, orders, records, and publications authorized or required by the terms of this Act shall be privileged. The order revoking or rescinding the probation shall not be subject to review or appeal.~~

~~[(f) On application, the Board may reissue a certificate or a license to a person whose certificate or license has been cancelled or revoked. Such an application may not be made before the expiration of one year after the date of the cancellation or revocation or a period determined by the Board.]~~

SECTION 22. The Psychologists' Certification and Licensing Act (Article 4512c, Vernon's Texas Civil Statutes) is amended by adding Section 23A to read as follows:

Sec. 23A. ADMINISTRATIVE PENALTY. (a) The Board may impose an administrative penalty against a person licensed or regulated under this Act who violates this Act or a rule or order adopted under this Act.

(b) The penalty for a violation may be in an amount not to exceed \$1,000. Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty.

(c) The amount of the penalty shall be based on:

(1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of any prohibited acts, and the hazard or potential hazard created to the health, safety, or economic welfare of the public;

(2) the economic harm to property or the environment caused by the violation;

(3) the history of previous violations;

(4) the amount necessary to deter future violations;

(5) efforts to correct the violation; and

(6) any other matter that justice may require.

(d) An executive director who determines that a violation has occurred may issue to the Board a report that states the facts on which the determination is based. The Board shall make a recommendation on the imposition of a penalty, including a recommendation on the amount of the penalty.

(e) Within 14 days after the date the report is issued, the executive director shall give written notice of the report to the person. The notice may be given by certified mail. The notice must include a brief summary of the alleged violation and a statement of the amount of the recommended penalty and must inform the person that the person has a right to a hearing

on the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(f) Within 20 days after the date the person receives the notice, the person in writing may accept the determination and recommended penalty of the Board or may make a written request for a hearing on the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(g) If the person accepts the determination and recommended penalty of the Board, the Board shall issue an order and impose the recommended penalty.

(h) If the person requests a hearing or fails to respond timely to the notice, the executive director shall set a hearing and give notice of the hearing to the person. The hearing shall be held by an administrative law judge of the State Office of Administrative Hearings. The administrative law judge shall make findings of fact and conclusions of law and promptly issue to the Board a proposal for a decision about the occurrence of the violation and the amount of a proposed penalty. Based on the findings of fact, conclusions of law, and proposal for a decision, the Board by order may find that a violation has occurred and impose a penalty or may find that no violation occurred.

(i) The notice of the Board's order given to the person under the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes) and its subsequent amendments must include a statement of the right of the person to judicial review of the order.

(j) Within 30 days after the date the Board's order is final as provided by Section 16(c), Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes), and its subsequent amendments, the person shall:

(1) pay the amount of the penalty;

(2) pay the amount of the penalty and file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty; or

(3) without paying the amount of the penalty, file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(k) Within the 30-day period, a person who acts under Subsection (j)(3) of this section may:

(1) stay enforcement of the penalty by:

(A) paying the amount of the penalty to the court for placement in an escrow account; or

(B) giving to the court a supersedeas bond approved by the court for the amount of the penalty and that is effective until all judicial review of the Board's order is final; or

(2) request the court to stay enforcement of the penalty by:

(A) filing with the court a sworn affidavit of the person stating that the person is financially unable to pay the amount of the penalty and is financially unable to give the supersedeas bond; and

(B) giving a copy of the affidavit to the executive director by certified mail.

(l) An executive director who receives a copy of an affidavit under Subsection (k)(2) of this section may file, with the court within five days after the date the copy is received, a contest to the affidavit. The court shall hold a hearing on the facts alleged in the affidavit as soon as practicable and shall stay the enforcement of the penalty on finding that the alleged facts are true. The person who files an affidavit has the burden of proving that the person is financially unable to pay the amount of the penalty and to give a supersedeas bond.

(m) If the person does not pay the amount of the penalty and the enforcement of the penalty is not stayed, the executive director may refer the matter to the attorney general for collection of the amount of the penalty.

(n) Judicial review of the order of the Board:

(1) is instituted by filing a petition as provided by Section 19, Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes) and its subsequent amendments; and

(2) is under the substantial evidence rule.

(o) If the court sustains the occurrence of the violation, the court may uphold or reduce the amount of the penalty and order the person to pay the full or reduced amount of the penalty. If the court does not sustain the occurrence of the violation, the court shall order that no penalty is owed.

(p) When the judgment of the court becomes final, the court shall proceed under this subsection. If the person paid the amount of the penalty and if that amount is reduced or is not upheld by the court, the court shall order that the appropriate amount plus accrued interest be remitted to the person. The rate of the interest is the rate charged on loans to depository institutions by the New York Federal Reserve Bank, and the interest shall be paid for the period beginning on the date the penalty was paid and ending on the date the penalty is remitted. If the person gave a supersedeas bond and if the amount of the penalty is not upheld by the court, the court shall order the release of the bond. If the person gave a supersedeas bond and if the amount of the penalty is reduced, the court shall order the release of the bond after the person pays the amount.

(q) A penalty collected under this section shall be remitted to the comptroller for deposit in the general revenue fund.

(r) All proceedings under this section are subject to the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes) and its subsequent amendments.

SECTION 23. The Psychologists' Certification and Licensing Act (Article 4512c, Vernon's Texas Civil Statutes) is amended by adding Section 23B to read as follows:

Sec. 23B. TEMPORARY SUSPENSION. (a) An executive committee of the Board, consisting of the presiding officer of the Board and two other

Board members appointed by the presiding officer, may temporarily suspend the license or certificate of a license or certificate holder under this Act if the executive committee determines from the evidence or information presented to the committee that the continued practice by the license or certificate holder constitutes a continuing or imminent threat to the public welfare.

(b) A temporary suspension authorized under Subsection (a) of this section may also be ordered on a majority vote of the Board.

(c) A license or certificate temporarily suspended under this section may be suspended without notice or hearing if, at the time the suspension is ordered, a hearing on whether disciplinary proceedings under this Act should be initiated against the license or certificate holder is scheduled to be held not later than the 14th day after the date of the suspension. A second hearing on the suspended license or certificate shall be held not later than the 60th day after the date the suspension was ordered. If the second hearing is not held in the time required by this subsection, the suspended license or certificate is automatically reinstated.

(d) The Board by rule shall adopt procedures for the temporary suspension of a license or certificate under this section.

SECTION 24. Section 24, Psychologists' Certification and Licensing Act (Article 4512c, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 24. INJUNCTIONS. The ~~[Texas State] Board [of Examiners of Psychologists]~~ shall have the right to institute an action in its own name to enjoin the violation of any provisions of this Act. Said action for injunction shall be in addition to any other action, proceeding or remedy authorized by law. The ~~[Texas State] Board [of Examiners of Psychologists]~~ shall be represented by the Attorney General ~~or [and/or] the County or District Attorneys of this state.~~

SECTION 25. Section 25, Psychologists' Certification and Licensing Act (Article 4512c, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 25. VIOLATIONS. Any person, whether acting as an individual, firm, partnership, corporation, agency or other entity, who engages in the practice of psychology or~~[- after December 31, 1970,]~~ represents the person ~~[himself]~~ to be a psychologist in violation ~~[within this state without being certified or licensed or exempted in accordance with the provisions]~~ of this Act is guilty of a Class A misdemeanor ~~[and, upon conviction, shall be punished by a fine not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00), and by imprisonment in county jail for not more than thirty (30) days].~~ Each day of violation is a separate offense.

SECTION 26. The Psychologists' Certification and Licensing Act (Article 4512c, Vernon's Texas Civil Statutes) is amended by adding Sections 25A, 25B, 25C, and 25D to read as follows:

Sec. 25A. COMPLAINT PROCEDURE IN GENERAL. (a) The Board shall keep an information file about each complaint filed with the Board. The Board's information file shall be kept current and contain a record for each complaint of:

- (1) all persons contacted in relation to the complaint;
- (2) a summary of findings made at each step of the complaint process;
- (3) an explanation of the legal basis and reason for a complaint that is dismissed; and
- (4) other relevant information.

(b) If a written complaint is filed with the Board that the Board has authority to resolve, the Board, at least as frequently as quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation.

(c) The Board by rule shall adopt a form to standardize information concerning complaints made to the Board. The Board by rule shall prescribe information to be provided to a person when the person files a complaint with the Board.

(d) The Board shall provide reasonable assistance to a person who wishes to file a complaint with the Board.

Sec. 25B. COMPLAINT INVESTIGATION AND DISPOSITION. (a) The Board shall adopt rules concerning the investigation of a complaint filed with the Board. The rules adopted under this subsection shall:

- (1) distinguish between categories of complaints;
- (2) ensure that complaints are not dismissed without appropriate consideration;
- (3) require that the Board be advised of a complaint that is dismissed and that a letter be sent to the person who filed the complaint explaining the action taken on the dismissed complaint;
- (4) ensure that the person who filed the complaint has an opportunity to explain the allegations made in the complaint; and
- (5) prescribe guidelines concerning the categories of complaints that require the use of a private investigator and the procedures for the Board to obtain the services of a private investigator.

(b) The Board shall dispose of all complaints in a timely manner. The Board shall establish a schedule for conducting each phase of a complaint that is under the control of the Board not later than the 30th day after the date the complaint is received by the Board. The schedule shall be kept in the information file for the complaint and all parties shall be notified of the projected time requirements for pursuing the complaint. A change in the schedule must be noted in the complaint information file and all parties to the complaint must be notified not later than the seventh day after the date the change is made.

(c) The executive director of the Board shall notify the Board of a complaint that extends beyond the time prescribed by the Board for resolving the complaint so that the Board may take necessary action on the complaint.

Sec. 25C. INFORMAL PROCEEDINGS. (a) The Board by rule shall adopt procedures governing:

- (1) informal disposition of a contested case under Section 13(e), Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes), and its subsequent amendments; and

(2) informal proceedings held in compliance with Section 18(c), Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes), and its subsequent amendments.

(b) Rules adopted under this section must provide the complainant and the license or certificate holder an opportunity to be heard and must require the presence of an attorney to advise the Board or Board's employees. The attorney must be a member of the Board's legal staff, if the Board has a legal staff. If the Board does not have a legal staff, the attorney must be a member of the office of the attorney general.

Sec. 25D. MONITORING OF LICENSE OR CERTIFICATE HOLDER. The Board by rule shall develop a system for monitoring license or certificate holders' compliance with the requirements of this Act. Rules adopted under this section shall include procedures for monitoring a license or certificate holder who is ordered by the Board to perform certain acts to ascertain that the license or certificate holder performs the required acts and to identify and monitor license or certificate holders who represent a risk to the public.

SECTION 27. (a) The changes in law made by this Act relating to an administrative or civil penalty that may be imposed apply only to a violation of the Psychologists' Certification and Licensing Act (Article 4512c, Vernon's Texas Civil Statutes) or a rule or order adopted by the Texas State Board of Examiners of Psychologists that occurs on or after the effective date of this Act. A violation occurs on or after the effective date of this Act only if each element of the violation occurs on or after that date. A violation that occurs before the effective date of this Act is governed by the law in effect on the date the violation occurred, and the former law is continued in effect for this purpose.

(b) As the terms of members of the Texas State Board of Examiners of Psychologists expire or as a vacancy occurs on the board, the governor shall appoint members to the board to achieve, as soon as possible, the membership plan prescribed for the board by this Act.

(c) The changes in law made by this Act in the qualifications of members of the Texas State Board of Examiners of Psychologists do not affect the entitlement of a member appointed before September 1, 1993, to continue to hold office on the board for the term for which the member was appointed. The changes in the qualifications apply only to a member appointed on or after September 1, 1993.

SECTION 28. (a) As soon as possible after the effective date of this Act, the governor shall appoint the initial members of the Psychological Associate Advisory Committee in accordance with the requirements of this Act. A certified psychological associate is eligible to serve as an initial psychological associate member. In making the initial appointments, the governor shall designate members to serve terms as follows:

(1) one psychological associate and one public member for terms expiring February 1, 1995;

(2) two psychological associates for terms expiring February 1, 1997; and

(3) one psychological associate and one public member for terms expiring February 1, 1999.

(b) The Psychological Associate Advisory Committee shall develop proposed rules for the consideration of the Texas State Board of Examiners of Psychologists as required by Section 19A, Psychologists' Certification and Licensing Act (Article 4512c, Vernon's Texas Civil Statutes), as added by this Act, not later than February 1, 1994. The board shall adopt rules relating to the licensure of psychological associates not later than September 1, 1994.

(c) The change in law made by this Act relating to the issuance or renewal of licenses of psychological associates applies only to a license issued or renewed on or after September 1, 1994. The issuance or renewal of a certificate of a psychological associate before that date is covered by the law in effect when the certificate was issued, and the former law is continued in effect for that purpose.

(d) On or after September 1, 1994, the Texas State Board of Psychologists shall issue licenses without cost or additional requirements to psychological associates to replace unexpired psychological associate certificates issued before September 1, 1994. Licenses issued under this subsection expire on the date the replaced certificate expires.

SECTION 29. Section 26, Psychologists' Certification and Licensing Act (Article 4512c, Vernon's Texas Civil Statutes), is repealed.

SECTION 30. This Act takes effect September 1, 1993.

SECTION 31. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Floor Amendment No. 1

Amend C.S.S.B. 1424 as follows:

(1) On page 1, line 24, between "treatment" and "of" insert "by psychological techniques and procedures".

Floor Amendment No. 2

Amend C.S.S.B. 1424 as follows:

(1) Amend SECTION 17, Section 19A, by amending Subsection (b) and adding a new Subsection (c) and renumbering accordingly:

(b) three members who are licensed psychological associates;

(c) one member who is a licensed psychologist; and

(2) Amend SECTION 17, Section 19(k)(7), by deleting the word "without" and substituting with the word "with minimal".

(3) Amend SECTION 20, Section 22 on page 25, line 13, by inserting "career counselors" after the term "counselors."

(4) Amend SECTION 28. On page 41, lines 20-21, strike the language in Subsection (a)(2) and substitute the following:

(2) one psychological associate and one licensed psychologist for terms expiring February, 1997; and

Amendment No. 3

Amend C.S.S.B. 1424 as follows:

(1) In Section 27 of the bill, in the last sentence of Subsection (c), strike "The" and substitute the following: "Except as provided by Subsection (d) of this section, the".

(2) In Section 27 of the bill, add a new Subsection (d) to read as follows:

(d) The change in law made by Section 5(c), Psychologists' Certification and Licensing Act (Article 4512c, Vernon's Texas Civil Statutes), as amended by this Act, requiring a psychological associate to be licensed under the Psychologists' Certification and Licensing Act to be eligible for appointment as a member of the Texas State Board of Examiners of Psychologists, applies only to a member appointed on or after September 1, 1999. For a psychological associate to be eligible for appointment to the board before that date, the sum of the time the person was certified under the Psychologists' Certification and Licensing Act and the time the person was licensed under that Act must be at least five years.

Amendment No. 4

Amend C.S.S.B. 1424, page 18, line 14, by adding Section 14 as follows and renumbering the subsequent sections accordingly:

SECTION 14. Section 16B, Psychologists' Certification and Licensing Act (Article 4512c, Vernon's Texas Civil Statutes), is amended by adding Subsection (c) to read as follows:

(c) A psychologist is exempt from this section if the psychologist's services and use of official title are within the scope of that psychologist's employment as exempted by Section 22(a) of this Act.

Amendment No. 5

Amend C.S.S.B. 1424 as follows:

On page 14, by striking lines 15 through 18.

Amendment No. 6

Amend C.S.S.B. 1424 as follows:

On page 2, by striking lines 9 through 11 and inserting "to race, color, disability, sex, religion, age, or national origin."

The amendments were read.

On motion of Senator Parker and by unanimous consent, the Senate concurred in the House amendments to S.B. 1424 by a viva voce vote.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 426 ADOPTED

Senator Sibley called from the President's table the Conference Committee Report on S.B. 426. The Conference Committee Report was filed with the Senate on Monday, May 24, 1993.

On motion of Senator Sibley, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Leedom.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 674 ADOPTED**

Senator Moncrief called from the President's table the Conference Committee Report on **S.B. 674**. The Conference Committee Report was filed with the Senate on Tuesday, May 25, 1993.

On motion of Senator Moncrief, the Conference Committee Report was adopted by a viva voce vote.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 1434 ADOPTED**

Senator Moncrief called from the President's table the Conference Committee Report on **S.B. 1434**. The Conference Committee Report was filed with the Senate on Tuesday, May 25, 1993.

On motion of Senator Moncrief, the Conference Committee Report was adopted by a viva voce vote.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 1374 ADOPTED**

Senator Bivins called from the President's table the Conference Committee Report on **H.B. 1374**. The Conference Committee Report was filed with the Senate on Tuesday, May 25, 1993.

On motion of Senator Bivins, the Conference Committee Report was adopted by a viva voce vote.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 405 ADOPTED**

Senator Carriker called from the President's table the Conference Committee Report on **S.B. 405**. The Conference Committee Report was filed with the Senate on Monday, May 24, 1993.

On motion of Senator Carriker, the Conference Committee Report was adopted by a viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE JOINT RESOLUTION 14
ON SECOND READING**

The President laid before the Senate as postponed business **C.S.H.J.R. 14**, the resolution having been read second time, amended, and further consideration postponed until 11:00 a.m. today.

C.S.H.J.R. 14, Proposing a constitutional amendment increasing the maximum size of an urban homestead to 10 acres and prescribing permissible uses of urban and rural homesteads.

Question—Shall the resolution be passed to third reading?

On motion of Senator Wentworth and by unanimous consent, further consideration of **C.S.H.J.R. 14** was postponed until 2:30 p.m. today.

CONFERENCE COMMITTEE ON HOUSE BILL 850

Senator Lucio called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on H.B. 850 and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the conference committee on H.B. 850 before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Lucio, Chair; Rosson, Madla, Patterson, and Wentworth.

SENATE BILL 1049 WITH HOUSE AMENDMENTS

Senator Parker called S.B. 1049 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Floor Amendment No. 1

Amend S.B. 1049, page 22, lines 3, 5, 7, and 8, as follows:

SECTION 9. Section 40.203(c), Natural Resources Code, is amended to read as follows:

(c) The total liability for all natural resource damages of any person responsible for an actual or threatened unauthorized discharge of oil from a vessel shall not exceed the following:

(1) for a ~~tank~~ vessel that carries oil in bulk, as cargo, the greater of:

(A) \$1,200 per gross ton; or

(B)(i) ~~for~~ in the case of a vessel greater than 3,000 gross tons, \$10 million; or

(ii) ~~for~~ in the case of a vessel of 3,000 gross tons or less, \$2 million; ~~or~~

(2) for any other vessel, \$600 per gross ton or \$500,000, whichever is greater.

Floor Amendment No. 2

Amend S.B. 1049, page 16, lines 17, 18, and 22, as follows:

SECTION 5. Section 40.107(c)(7)(D), Natural Resources Code, is amended to read as follows:

(D) The trustees shall complete the comprehensive assessment procedure within ~~30~~ 20 months of the date of the determination by the state on-scene coordinator that the cleanup is complete. The trustees may petition the commissioner for a longer period of time to complete the assessment by showing that the full impact of the discharge on the affected natural resources cannot be determined in ~~30~~ 20 months.

Amendment No. 3

Amend S.B. 1049 in SECTION 5 of the bill after the last sentence of new Section 40.107(c)(1), Natural Resources Code (page 12, line 14, House Committee Printing) by adding "The Legislative Natural Resources Board shall oversee the development of the inventory required by this subsection.".

The amendments were read.

Senator Parker moved that the Senate do not concur in the House amendments, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the conference committee on S.B. 1049 before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Parker, Chair; Truan, Shelley, Barrientos, and Carriker.

SENATE BILL 339 WITH HOUSE AMENDMENT

Senator Parker called S.B. 339 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Amendment

Amend S.B. 339 by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to the qualifications of sheriffs.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsection (c), Section 415.015, Government Code, is amended to read as follows:

(c) This chapter does not affect a constable or other officer or county jailer elected under the Texas Constitution before September 1, 1985, and does not affect a person who held the office of sheriff before January 1, 1994.

SECTION 2. Section 415.053, Government Code, is amended to read as follows:

Sec. 415.053. LICENSING OF CERTAIN LAW ENFORCEMENT OFFICERS ELECTED UNDER TEXAS CONSTITUTION OR STATUTE. An officer, including a sheriff, elected under the Texas Constitution or a statute or appointed to fill a vacancy in an elective office must be licensed by the commission not later than two years after the date that the officer takes office. The commission shall establish requirements for licensing and for revocation, suspension, cancellations, or denial of a license of such

an officer. It is incompetency and a ground for removal from office under Title 100, Revised Statutes, or any other removal statute if an officer to whom this section applies does not obtain the license by the required date or does not remain licensed.

SECTION 3. Subchapter A, Chapter 85, Local Government Code, is amended by adding Section 85.0011 to read as follows:

Sec. 85.0011. QUALIFICATIONS. A person is not eligible to serve as sheriff unless the person:

(1) has a high school diploma or a high school equivalency certificate;
and

(2) is eligible to be licensed under Sections 415.058 and 415.059, Government Code.

SECTION 4. The change in law made by Section 85.0011, Local Government Code, as added by this Act, applies only to a person first elected or appointed to the office of sheriff on or after the effective date of this Act. A person elected or appointed to the office of sheriff before the effective date of this Act is covered, for the remainder of the term for which the person was elected or appointed, or for any subsequent term for which the person serves as sheriff, by the law relating to qualifications and continuing education in effect when the person was first elected or appointed, and the former law is continued in effect for that purpose. Changes made to Subchapter A, Chapter 85, Local Government Code, by Section 85.0011, as added by this Act, do not apply to a person first elected or appointed before the effective date of this Act.

SECTION 5. This Act takes effect on the date on which the constitutional amendment proposed by Section 1, S.J.R. 18, 73rd Legislature, Regular Session, 1993, takes effect. If that amendment does not take effect, this Act has no effect.

SECTION 6. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force according to its terms, and it is so enacted.

The amendment was read.

Senator Parker moved that the Senate do not concur in the House amendment, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the conference committee on S.B. 339 before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Parker, Chair; Wentworth, Armbrister, Whitmire, and Sibley.

(Senator Henderson in Chair)

SENATE BILL 210 WITH HOUSE AMENDMENTS

Senator Zaffirini again called S.B. 210 from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Committee Amendment No. 1

Amend S.B. 210 as follows:

(1) On page 14 between lines 9 and 10 add a new Subsection (7) to read as follows:

"(7) Mental health services, as defined by this section, provided by a member of the clergy do not include religious, moral and spiritual counseling, teaching and instruction."

Amendment No. 2

Amend Committee Amendment No. 1 to S.B. 210 to read as follows:

Amend S.B. 210 as follows:

(1) On page 14 between lines 12 and 13 add a new Subsection (7) to read as follows:

"(7) Mental health services, as defined by this section, provided by a member of the clergy do not include religious, moral and spiritual counseling, teaching and instruction."

Amendment No. 3

Amend S.B. 210 as follows:

1.) On page 31, add a new item to the list in Sec. 571.0065(a) as follows:

(8) one person who has practiced rage therapy, trust development therapy or rough signing as part of a professional practice for which the person is properly licensed or certified.

2.) Strike "and" from line 17.

3.) Strike the period and add "; and" on line 20.

Amendment No. 4

Amend S.B. 210 as follows:

(1) Beginning on page 6, line 23, strike Subsections (c), (d), and (g) and substitute in lieu thereof the following:

(c) A plaintiff who prevails in a suit under this section may recover actual damages, including damages for mental anguish even if an injury other than mental anguish is not shown.

(d) In addition to an award under Subsection (c), a plaintiff who prevails in a suit under this section may recover exemplary damages and reasonable attorney fees.

(g) A suit under this section may be brought in the district court of the county in which:

(1) the plaintiff received care or treatment; or

(2) the defendant conducts business.

Amend S.B. 210 as follows:

(1) Beginning on page 9, line 22, strike Subsections (d), (e), and (f) and substitute in lieu thereof the following:

(d) A plaintiff who prevails in a suit under this section may recover actual damages, including damages for mental anguish even if an injury other than mental anguish is not shown.

(e) In addition to an award under Subsection (c), a plaintiff who prevails in a suit under this section may recover exemplary damages and reasonable attorney fees.

(f) A suit under this section may be brought in the district court of the county in which:

- (1) the plaintiff was employed by the defendant; or
- (2) the defendant conducts business.

Amendment No. 5

Amend S.B. 210 as follows:

(1) Beginning on page 16, line 13, strike Subsections (a) and (b) and substitute in lieu thereof the following:

(a) A plaintiff who prevails in a suit under this section may recover actual damages, including damages for mental anguish even if an injury other than mental anguish is not shown.

(b) In addition to an award under Subsection (a), a plaintiff who prevails in a suit under this section may recover exemplary damages and reasonable attorney fees.

Amendment No. 6

Amend S.B. 210 on page 31, after line 12, by inserting a new Subsection (6) to read as follows and by renumbering all remaining subsections:

(6) one licensed occupational therapist;

Amendment No. 7

Amend S.B. 210 by inserting a new article, appropriately numbered, to read as follows and renumbering subsequent articles appropriately:

ARTICLE _____

SECTION _____. Subchapter I, Chapter 161, Health and Safety Code, as added by Chapter 15, Acts of the 72nd Legislature, 1st Called Session, 1991, is amended to read as follows:

SUBCHAPTER I. ILLEGAL REMUNERATION

Sec. 161.091. PROHIBITION ON ILLEGAL REMUNERATION.

(a) A person ~~[licensed, certified, or registered by a health care regulatory agency of this state]~~ commits an offense if the person intentionally or knowingly offers to pay or agrees to accept any remuneration directly or indirectly, overtly or covertly, in cash or in kind, to or from any person, firm, association of persons, partnership, or corporation for securing or soliciting patients or patronage for or from a person licensed, certified, or registered by a state health care regulatory agency.

(b) It is a rebuttable presumption that a person has violated this section if:

(1) the person refers or accepts a referral of a person to an inpatient mental health facility or chemical dependency treatment facility;

(2) before the patient is discharged or furloughed from the inpatient facility, the person pays the referring person or accepts payment from the inpatient facility for outpatient services to be provided by the referring person after the patient is discharged or furloughed from the inpatient facility; and

(3) the referring person does not provide the outpatient services for which payment was made and does not return to the inpatient facility the payment for the services not provided.

(c) This section shall not be construed to prohibit advertising except that which is false, misleading, or deceptive or that which advertises professional superiority or the performance of a professional service in a superior manner and that is not readily subject to verification.

(d) [(e)] Except as provided by this section, an offense under this section is a Class A misdemeanor. If it is shown on [in] the trial of a person under [violation of] this section that the person has previously been convicted of an offense under [a violation of] this section or that the person was employed by a federal, state, or local government at the time the offense occurred, the offense is ~~[on conviction the person shall be punished for]~~ a felony of the third degree. In addition to any other penalties or remedies provided, a violation of this section shall be grounds for disciplinary action by a [the] regulatory agency that has issued a license, certification, or registration to the person.

(e) [(d)] The appropriate health care regulatory agency may institute an action to enjoin a violation or potential violation of this section. The action for an injunction shall be in addition to any other action, proceeding, or remedy authorized by law. The regulatory agency shall be represented by the attorney general.

[(e)] This section shall not be construed to prohibit remuneration for advertising, marketing, or other services that are provided for the purpose of securing or soliciting patients provided the remuneration is set in advance, is consistent with the fair market value of the services, and is not based on the volume or value of any patient referrals or business otherwise generated between the parties.

[(f)] This section shall ~~[not]~~ be construed to permit [prohibit] any payment, business arrangements, or payments practice permitted [not prohibited] by 42 U.S.C. Section 1320a-7b(b) or any regulations promulgated pursuant thereto.

(f) [(g)] This section shall not apply to licensed insurers, governmental entities, including intergovernmental risk pools established under Chapter 172, Local Government Code, and institutions as defined in the Texas State College and University Employees Uniform Insurance Benefits Act (Article 3.50-3, Vernon's Texas Insurance Code), group hospital service corporations, or health maintenance organizations which reimburse, provide, offer to provide, or administer hospital, medical, dental, or other health-related benefits under a health benefits plan for which it is the payor.

Sec. 161.0915. EXEMPTION. (a) This subchapter does not apply to a health care information service that:

(1) provides its services to a consumer only by telephone communication on request initiated by the consumer and without charge to the consumer;

(2) provides information about health care providers to enable consumer selection of health care provider services without any direct influence by a health care provider on actual consumer selection of those services;

(3) in response to each consumer inquiry, on a nondiscriminatory basis, provides information identifying health care providers who substantially meet the consumer's detailed criteria based on consumer responses to standard questions designed to elicit a consumer's criteria for a health care provider, including criteria concerning location of the practice, practice specialties, costs and payment policies, acceptance of insurance coverage, general background and practice experience, and various personal characteristics;

(4) does not attempt through its standard questions for solicitation of consumer criteria or through any other means or methods to steer or lead a consumer to select or consider selection of a particular health care provider for health care provider services;

(5) identifies to a consumer;

(A) all health care providers who substantially meet the consumer's stated criteria and who are located within the zip code area in which the consumer elects to obtain services from a health care provider;
or

(B) all health care providers substantially meeting the consumer's stated criteria who are located in zip code areas in the closest proximity to the elected zip code area if no health care provider substantially meeting the consumer's criteria is located within that zip code area;

(6) discloses to each consumer the relationship between the health care information service and health care providers participating in its services;

(7) does not provide or represent itself as providing diagnostic or counseling services or assessment of illness or injury and does not make any promises of cure or guarantees of treatment;

(8) does not provide or arrange for transportation of a consumer to or from the location of a health care provider;

(9) does not limit the scope of or direct its advertising or other marketing of its services to a particular health care provider specialty, to a particular segment of the population, or to persons suffering from a particular illness, condition, or infirmity;

(10) charges to and collects fees from a health care provider participating in its services that are set in advance, are consistent with the fair market value for those information services, and are not based on the potential value of a patient or patients to a health care provider or on the value of or a percentage of the value of a professional service provided by the health care provider;

(11) does not limit participation by a health care provider in its services to a particular health care specialty or to a particular service provided by a health care provider;

(12) does not limit participation by a health care provider in its services for a reason other than:

(A) failure to have a current, valid license without limitation to practice in this state;

(B) failure to maintain professional liability insurance while participating in the service;

(C) significant dissatisfaction of consumers of the health care information service that is documented and can be proved;

(D) a decision by a peer review committee that the health care provider has failed to meet prescribed standards or has not acted in a professional or ethical manner; or

(E) termination of the contract between the health care provider and the health care information service by either party under the terms of the contract;

(13) maintains a customer service department to handle complaints and answer questions for consumers;

(14) maintains a customer follow-up system to monitor consumer satisfaction; and

(15) does not use, maintain, distribute, or provide for any purpose any information that will identify a particular consumer, such as a name, address, or telephone number, obtained from a consumer seeking its services other than for the purposes of:

(A) providing the information to the health care provider with whom an appointment is made;

(B) performing administrative functions necessary to operate the health care information service;

(C) providing directly to a consumer, at the request of that consumer on that consumer's initial contact with the health care information service, information relating to health-related support groups or providers of health-care-related services or equipment within the area or areas of interest requested by the consumer; or

(D) conducting analytical research on data obtained through provision of services and preparing statistical reports that generally analyze that data but do not in any manner identify one or more specific consumers.

(b) In this section:

(1) "Health care information service" means a person who provides information to a consumer regarding health care providers that can enable the consumer to select one or more health care providers to furnish health care services.

(2) "Health care provider" means a person licensed, certified, or registered by a state health care regulatory agency other than a:

(A) mental health facility as defined by Section 571.003;
or

(B) treatment facility as defined by Section 464.001.

Sec. 161.092. NOTIFICATION OF REMUNERATION. (a) A person commits an offense if:

(1) the person, in a manner otherwise permitted under Section 161.091, accepts remuneration to secure or solicit patients or patronage for a person licensed, certified, or registered by a state health care regulatory agency; and

(2) does not, at the time of initial contact and at the time of referral, disclose to the patient:

(A) the person's affiliation, if any, with the person for whom the patient is secured or solicited; and

(B) that the person will receive remuneration, directly or indirectly, for securing or soliciting the patient.

(b) Except as otherwise provided by this section, an offense under this section is a Class A misdemeanor. If it is shown on the trial of a person under this section that the person has previously been convicted of an offense under this section or that the person was employed by a federal, state, or local government at the time the offense occurred, the offense is a felony of the third degree.

(c) In addition to other penalties or remedies provided by this subchapter, a violation of this section is grounds for disciplinary action by a regulatory agency that has issued a license, certification, or registration to the person.

Sec. 161.093. INJUNCTION. (a) The attorney general or the appropriate district or county attorney, in the name of the state, may institute and conduct an action in a district court of Travis County or of a county in which any part of the violation occurs for an injunction or other process against a person who is violating this subchapter.

(b) The district court may grant any prohibitory or mandatory relief warranted by the facts, including a temporary restraining order, temporary injunction, or permanent injunction.

Sec. 161.094. CIVIL PENALTIES. (a) A person who violates this subchapter is subject to a civil penalty of not more than \$10,000 for each day of violation and each act of violation. In determining the amount of the civil penalty, the court shall consider:

(1) the person's previous violations;

(2) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation;

(3) whether the health and safety of the public was threatened by the violation;

(4) the demonstrated good faith of the person; and

(5) the amount necessary to deter future violations.

(b) The attorney general or the appropriate district or county attorney, in the name of the state, may institute and conduct an action authorized by this section in a district court of Travis County or of a county in which any part of the violation occurs.

(c) The party bringing the suit may:

(1) combine a suit to assess and recover civil penalties with a suit for injunctive relief brought under Section 161.093; or

(2) file a suit to assess and recover civil penalties independently of a suit for injunctive relief.

(d) The party bringing the suit may recover reasonable expenses incurred in obtaining injunctive relief, civil penalties, or both, including investigation costs, court costs, reasonable attorney fees, witness fees, and deposition expenses.

(e) A penalty collected under this section by the attorney general shall be deposited to the credit of the general revenue fund. A penalty collected under this section by a district or county attorney shall be deposited to the credit of the general fund of the county in which the suit was heard.

(f) The civil penalty and injunction authorized by this subchapter are in addition to any other civil, administrative, or criminal action provided by law.

Amendment No. 1 on Third Reading

Amend S.B. 210 on third reading, in Section 2.01 of the bill, in Section 81.003, Civil Practice and Remedies Code, by adding a new Subsection (d) to read as follows:

(d) If a mental health professional who sexually exploits a patient or former patient is a member of the clergy, liability if any under this section is limited to the church, congregation, or parish in which the member of the clergy carried out the clergy member's pastoral duties:

(1) at the time the sexual exploitation occurs, if the liability is based on a violation of Subsection (a); or

(2) at the time of the previous occurrence of sexual exploitation, if the liability is based on a violation of Subsection (b).

The amendments were again read.

Senator Zaffirini moved that the Senate do not concur in the House amendments, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the conference committee on S.B. 210 before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Zaffirini, Chair; Moncrief, Parker, Ellis, and Truan.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 965 ADOPTED

Senator Zaffirini called from the President's table the Conference Committee Report on H.B. 965. The Conference Committee Report was filed with the Senate on Saturday, May 22, 1993.

On motion of Senator Zaffirini, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Leedom.

HOUSE BILL 2641 ON SECOND READING

On motion of Senator Montford and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 2641, Relating to the board of directors and powers and duties of the Lynn County Hospital District.

The bill was read second time.

Senator Moncrief offered the following amendment to the bill:

Amend **H.B. 2641** by striking all language on page 6, lines 6-14 and substituting in lieu thereof the following:

SECTION 9. The terms of office for the successors to the directors currently serving in places two, four, and six shall begin on the first Saturday in May, 1994, and shall expire on the first Saturday in May, 1997. The terms of office for the successors to the directors currently serving in places three and five shall begin on the first Saturday of May, 1995, and shall expire on the first Saturday in May, 1998. The terms of office for the successors to the directors serving in places one and seven shall begin on the first Saturday in May, 1995, and shall expire on the first Saturday in May, 1996. Thereafter, all successive terms shall be of three years duration.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Montford and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

HOUSE BILL 2641 ON THIRD READING

Senator Montford moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 2641** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Leedom.

The bill was read third time and was passed by a viva voce vote.

HOUSE BILL 1970 ON SECOND READING

On motion of Senator Montford and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1970, Relating to the registration and titling of vessels and outboard motors.

The bill was read second time.

Senator Montford offered the following amendment to the bill:

Amend **H.B. 1970** on page 2, by striking on lines 25 through 26 the language "rubber rafts, or other vessels when paddled, poled, or oared[-or

~~windblown]~~" and substitute in lieu thereof the following:
rubber rafts, or other vessels under 14 feet in length when paddled, poled,
oared, or windblown

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Montford and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

HOUSE BILL 1970 ON THIRD READING

Senator Montford moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that H.B. 1970 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Shelley.

Absent-excused: Leedom.

The bill was read third time and was passed by a viva voce vote.

RECORD OF VOTE

Senator Shelley asked to be recorded as voting "Nay" on the final passage of the bill.

HOUSE BILL 825 ON SECOND READING

On motion of Senator Whitmire and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 825, Relating to the authority of a municipality to correct certain violations of municipal sanitation regulations.

The bill was read second time.

Senator Whitmire offered the following committee amendment to the bill:

Amend **H.B. 825**, SECTION 1, Sec. 342.006(c) by striking the last sentence and substituting:

"If a violation covered by a notice under this subsection occurs within the one-year period, and the municipality has not been informed in writing by the owner of an ownership change, then the municipality without notice may take any action permitted by Subsections (a)(1) and (2) and assess its expenses as provided by Section 342.007."

The committee amendment was read and was adopted by a viva voce vote.

On motion of Senator Whitmire and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

HOUSE BILL 825 ON THIRD READING

Senator Whitmire moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 825** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Leedom.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

(President in Chair)

HOUSE BILL 1719 ON SECOND READING

On motion of Senator Montford and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1719, Making appropriations for and directing payment of certain miscellaneous claims and judgments out of funds designated herein; requiring approval of the claims in the manner specified in this Act before payment is made.

The bill was read second time.

Senator Montford offered the following committee amendment to the bill:

Committee Amendment

- (1) Amend Section 1 of **H.B. 1719** by adding the following items:

To pay Carla Edwards and Charles Edwards individually and as next friend for Steven Chase Edwards, a minor, as a result of a lawsuit against The University of Texas Medical Branch - Galveston for severe brain damage which occurred to the child at birth, plus pre-judgment interest at a rate of 10 percent from April 11, 1985, until the date of the judgment, plus post-judgment interest at a rate of 10 percent from November 24, 1992, until paid, to be computed by the comptroller.	\$880,000.00
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To pay City of Austin for outstanding billing for water and wastewater utility services provided to the Texas School for the Blind and Visually Impaired.	\$ 18,438.86
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To reimburse Fund No. 239 in the State Treasury, belonging to Texas Tech University Health Sciences Center, for partial payment of itemized settlements and judgments, plus interest, if any, to be computed by the comptroller, as follows:

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- | | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|
| (a) Marco Velasquez and Guillermina Velasquez, Individually and on behalf of Marco Velasquez, Jr., a minor, vs. El Paso Hospital District, Texas Tech University Health Sciences Center, et al., dated October 14, 1991. | \$ 35,000.00 |
| (b) Isidro Ruiz, Individually and as Administrator of the Estate of Elvira Ruiz, et al., vs. R.E. Thomason General Hospital, Texas Tech University Health Sciences Center, et al., dated April 3, 1992. | \$ 5,000.00 |
| (c) Monica Puga, et al., vs. Texas Tech University Health Sciences Center (El Paso County), dated May 6, 1992. | \$ 10,000.00 |
| (d) Armida Gallegos vs. Texas Tech University Health Sciences Center, et al. (El Paso County), dated May 20, 1992. | \$ 42,500.00 |
| (e) Antonio and Enedina Carrillo vs. El Paso Hospital District, et al., Texas Tech University Health Sciences Center, et al., dated June 19, 1992. | \$150,000.00 |
| (f) Maria Guadalupe Mendez, et al., vs. El Paso Hospital District operating as R.E. Thomason General Hospital, Texas Tech University Health Sciences Center, et al., dated August 21, 1992. | \$ 2,500.00 |
| (g) Melissa Hernandez, et al., vs. Texas Tech University Health Sciences Center, et al. (Lubbock County), dated October 19, 1992. | \$315,000.00 |
| (h) Maricela Martinez and Jose Jesus Martinez, Individually and on behalf of Jose Jesus Martinez, Jr., a minor child, deceased, vs. Texas Tech University Health Sciences Center, et al. (El Paso County), dated November 10, 1992. | \$ 5,000.00 |
| (i) Socorro Gafare and Roberto Gafare, Jr., vs. El Paso Hospital District, operating as R.E. Thomason General Hospital, Texas Tech University Health Sciences Center and William Sullivan, M.D., dated February 1, 1993. | \$150,000.00 |
| (j) Laura L. Goolsby vs. Texas Tech University Medical Center, Robert Messer, M.D.; Rowlinda Stone, M.D., and Virginia Ruth, M.D., dated March 4, 1993. | \$ 5,400.00 |
| (k) Albert and Anita Cruz, Individually and on behalf of their son Fernando Cruz, et al., vs. Texas Tech University Health Sciences Center, et al. (Lubbock County) dated April 21, 1993. | \$195,000.00 |

- (2) Amend Section 1 of H.B. 1719 by deleting lines 21 through 27 on page 5 and line 1 on page 6.
- (3) Amend Section 1 of H.B. 1719 by deleting lines 1 through 2 on page 7.

The committee amendment was read and was adopted by a viva voce vote.

Senator Montford offered the following amendment to the bill:

Floor Amendment

(1) Amend H.B. 1719 by adding a new section to read as follows:
SECTION _____. To pay Outreach Health Services of San Antonio, Inc. an amount not to exceed \$77,758.67 for family care services for Medicaid recipient, from General Revenue Fund No. 166.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Montford and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

HOUSE BILL 1719 ON THIRD READING

Senator Montford moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that H.B. 1719 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Leedom.

The bill was read third time and was passed by a viva voce vote.

(Senator Montford in Chair)

HOUSE BILL 333 ON SECOND READING

On motion of Senator Whitmire and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 333, Relating to the authority and procedures of municipalities for the inspection and regulation of buildings in the interest of public safety.

The bill was read second time.

Senator Whitmire offered the following committee amendment to the bill:

Amend H.B. 333 as follows:

1. On page 3, line 19, after the sentence ending in the word "located", insert the following sentence:
"The notice must contain the name and address of the owner of the affected property if that information can be determined from a reasonable

search of the instruments on file in the office of the county clerk, a legal description of the affected property, and a description of the proceeding."

2. On page 3, line 20, after the word "binding" insert the following: "on subsequent grantees, lienholders, or other transferees of an interest in the property who acquire such interest after the filing of the notice"

3. On page 3, line 21, after the word "property" and before the period, insert the following:

"who acquires such interest after the filing of the notice"

4. On page 10, line 1, after the sentence ending in the word "located.", insert the following sentence:

"The notice must contain the name and address of the owner of the affected property if that information can be determined from a reasonable search of the instruments on file in the office of the county clerk, a legal description of the affected property, and a description of the hearing."

5. On page 10, line 2, after the word "binding", insert the following: "on subsequent grantees, lienholders, or other transferees of an interest in the property who acquire such interest after the filing of the notice."

6. On page 10, line 4, after the word "property" and before the period, insert the following:

"who acquires such interest after the filing of the notice"

The committee amendment was read and was adopted by a viva voce vote.

On motion of Senator Whitmire and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

HOUSE BILL 333 ON THIRD READING

Senator Whitmire moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 333** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Leedom.

The bill was read third time and was passed by a viva voce vote.

COMMITTEE SUBSTITUTE HOUSE BILL 2752 ON SECOND READING

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 2752, Relating to authorizing the issuance of revenue bonds for certain public institutions of higher education.

The bill was read second time.

Senator Ellis offered the following amendment to the bill:

Amend **C.S.H.B. 2752** by striking Sec. 55.1713 and substituting in lieu thereof the following:

Sec. 55.1713. THE UNIVERSITY OF HOUSTON SYSTEM. (a) In addition to the authority granted by Sections 55.13, 55.14, 55.17, 55.171, and 55.19 of this code, the board of regents of the University of Houston System may acquire, purchase, construct, improve, renovate, enlarge, or equip property, buildings, structures, facilities, roads, or related infrastructure for the University of Houston—Downtown to be financed by the issuance of bonds in accordance with this subchapter and in accordance with a systemwide revenue financing program adopted by the board in an aggregate principal amount not to exceed \$22.4 million.

(b) The board may pledge irrevocably to the payment of those bonds all or any part of the revenue funds of an institution, branch, or entity of the University of Houston System, including student tuition charges required or authorized by law to be imposed on students enrolled at an institution, branch or entity of the University of Houston System. The amount of a pledge made under this subsection may not be reduced or abrogated while the bonds for which the pledge is made, or bonds issued to refund those bonds, are outstanding.

(c) If sufficient funds are not available to the board to meet its obligations under this section, the board may transfer funds among institutions, branches, and entities of the University of Houston System to ensure the most equitable and efficient allocation of available resources for each institution, branch, or entity to carry out its duties and purposes.

The amendment was read and was adopted by viva voce vote.

On motion of Senator Ellis and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by viva voce vote.

COMMITTEE SUBSTITUTE HOUSE BILL 2752 ON THIRD READING

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that C.S.H.B. 2752 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Leedom.

The bill was read third time and was passed by a viva voce vote.

COMMITTEE SUBSTITUTE HOUSE BILL 2716 ON SECOND READING

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 2716, Relating to forms prescribed by the comptroller to designate representation of property owner.

The bill was read second time and was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2716 ON THIRD READING**

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.H.B. 2716** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Leedom.

The bill was read third time and was passed by a viva voce vote.

HOUSE BILL 1937 ON SECOND READING

On motion of Senator Barrientos and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1937, Relating to the appeal of a decision of the board of a municipal utility district regarding facilities constructed for the district.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 1937 ON THIRD READING

Senator Barrientos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 1937** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Leedom.

The bill was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1808 ON SECOND READING**

On motion of Senator Brown and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 1808, Relating to the regulation of certain persons and organizations under the Private Investigators and Private Security Agencies Act.

The bill was read second time.

Floor Amendment No. 1 was not offered.

Senator Brown offered the following amendment to the bill:

Floor Amendment No. 2

Amend **C.S.H.B. 1808** in SECTION 4., Section 32 REGISTRATION as follows:

In (f)(1) second sentence by inserting the word "only" after the word "may".

And by deleting the last sentence of (f)(3).

And in (g) by striking the words "The board may require persons who are employed as" and inserting the words "If the board requires certification or examination under Subsection (f) of this section, the board shall implement rules to require persons who are employed as"

The amendment was read and was adopted by a viva voce vote.

Senator Armbrister offered the following amendment to the bill:

Floor Amendment No. 3

Amend C.S.H.B. 1808, SECTION 4, as follows:

Delete the last sentence of Subsection (g) and substitute the following:
If the board requires such continuing education, the executive director shall approve classes offered by nationally recognized organizations and participants in such classes shall qualify according to rules adopted by the board.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Brown and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1808 ON THIRD READING**

Senator Brown moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that C.S.H.B. 1808 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Leedom.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 2858 ON SECOND READING

On motion of Senator Harris of Dallas and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 2858, Relating to the issuance of workers' compensation insurance coverage by and the operations of the Texas workers' compensation insurance facility and the Texas Workers' Compensation Insurance Fund.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 2858 ON THIRD READING

Senator Harris of Dallas moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be

suspended and that **H.B. 2858** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Leedom.

The bill was read third time and was passed by a viva voce vote.

(President in Chair)

HOUSE JOINT RESOLUTION 37 ON SECOND READING

On motion of Senator Ratliff and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.J.R. 37, Proposing a constitutional amendment to provide for the abolition of the office of county surveyor.

The resolution was read second time and was passed to third reading by a viva voce vote.

HOUSE JOINT RESOLUTION 37 ON THIRD READING

Senator Ratliff moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.J.R. 37** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Leedom.

The resolution was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

COMMITTEE SUBSTITUTE HOUSE BILL 31 ON SECOND READING

On motion of Senator West and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 31, Relating to a performance bond or payment bond executed in connection with a public works or public construction contract.

The bill was read second time and was passed to third reading by a viva voce vote.

COMMITTEE SUBSTITUTE HOUSE BILL 31 ON THIRD READING

Senator West moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.H.B. 31** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Leedom.

The bill was read third time and was passed by a viva voce vote.

HOUSE BILL 831 ON SECOND READING

On motion of Senator Harris of Tarrant and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 831, Relating to the Uniform Interstate Family Support Act.

The bill was read second time.

Senator Harris of Tarrant offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **H.B. 831** by adding the following appropriately numbered sections and renumbering the subsequent sections of the bill appropriately:

SECTION _____. Subchapter A, Chapter 14, Family Code, is amended by adding Section 14.09 to read as follows:

Sec. 14.09. PATERNITY TESTING FOR OBLIGOR. (a) An obligor who is a man and who is current in child support payments may petition the court having continuing, exclusive jurisdiction of the suit affecting the parent-child relationship as provided by Section 11.05 of this code to order the mother of the child for whom support payments are made, the child, and the obligor to submit to the taking of blood, body fluid, or tissue samples for the purpose of scientifically accepted paternity testing. The testing must be conducted as provided by Section 13.02(a) of this code.

(b) The obligor may file a petition under this section only once.

(c) After notice and hearing, a court shall vacate the obligor's order of child support if the obligor shows:

(1) that the mother of the child refuses to submit to testing or refuses to allow the child to be tested; or

(2) the results of paternity testing under this section exclude the obligor from the possibility of being the father of the child.

(d) If the test results do not exclude the obligor from the possibility of being the father of the child, the obligor's duty to pay child support continues as required by the child support order.

SECTION _____. Section 14.05(d), Family Code, is amended to read as follows:

(d) Unless otherwise agreed to in writing or expressly provided in the decree, provisions for the support of a child are terminated by the marriage of the child, the removal of the child's disabilities for general purposes, or the death of a parent obligated to support the child. In addition, provisions for the support of a child may be terminated as provided by Section 14.09 of this code.

The committee amendment was read.

On motion of Senator Harris of Tarrant and by unanimous consent, Committee Amendment No. 1 was withdrawn.

Senator Harris of Tarrant offered the following committee amendment to the bill:

Committee Amendment No. 2

Amend H.B. 831, on page 1, between lines 3 and 4 by adding new Subsections 1 and 2, to read as follows and renumber the subsequent sections appropriately:

SECTION 1. (a) It is the intent of the legislature in this Act to provide spousal maintenance as a temporary rehabilitative measure for a divorced spouse whose ability for self-support is lacking or has deteriorated through the passage of time and whose capital assets or other resources or income are insufficient to provide support.

(b) It is the intent of the legislature in this Act that spousal support should be terminated in the shortest reasonable time, not to exceed three years, in which the former spouse is able to be employed or to acquire the necessary skills to become self-supporting. Only in circumstances in which the former spouse cannot become self-supporting by reason of incapacitating physical or mental disability or lack of other resources or income should maintenance be extended beyond this period, not to exceed five years.

SECTION 2. Chapter 3, Family Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. MAINTENANCE

Sec. 3.80. DEFINITION. In this Subchapter, "maintenance" means an award, in a divorce, annulment, or suit to declare a marriage void, of periodic payments from the future income of one spouse for the support of the other spouse.

Sec. 3.81. ELIGIBILITY FOR MAINTENANCE. In a suit for divorce, annulment, to declare a marriage void, or in a proceeding for maintenance in a court with personal jurisdiction over both former spouses following the dissolution of their marriage by a court that lacked personal jurisdiction over an absent spouse, the court may order maintenance for either spouse only if:

(1) the duration of the marriage was 10 years or longer as of the date of the filing of the original petition;

(2) the spouse seeking maintenance lacks sufficient property, including property or other resources or income distributed to the spouse under this code, to provide for the spouse's minimum reasonable needs, as limited by Section 3.84 of this code; and

(3) the spouse needing maintenance:

(A) is unable to support himself or herself through appropriate employment because of an incapacitating physical or mental disability which first manifested itself during the marriage or through other resources or income;

(B) is the custodian of a child who is a natural or adopted child of the other spouse and who requires substantial care and personal supervision because a physical or mental disability makes it necessary, taking into consideration the needs of the child, that the spouse seeking maintenance not be employed outside the home; or

(C) clearly lacks earning ability in the labor market or other resources or income adequate to provide support for the spouse's minimum reasonable needs, as limited by Section 3.84 of this code.

Sec. 3.82. FACTORS TO DETERMINE MAINTENANCE. A court that determines that a spouse is eligible to receive maintenance under Section 3.81 of this code shall determine the nature, amount, duration, and manner of periodic payments by considering all relevant factors, including:

(1) the financial resources or other income or property of the spouse seeking maintenance, including the community and separate property and liabilities apportioned to that spouse in the suit for divorce, annulment, or to declare a marriage void, and that spouse's ability to meet his or her needs independently;

(2) the education and employment skills of the spouses and the time necessary to acquire sufficient education or training to enable the spouse needing maintenance to find appropriate employment, the availability of that education or training, and the feasibility of that education or training;

(3) the duration of the marriage;

(4) the age, employment history, earning ability, and the physical and mental condition of the spouses;

(5) the ability of a spouse to meet that spouse's personal needs and to provide periodic child support payments, if applicable, while meeting the personal needs of the spouse seeking maintenance;

(6) acts by either spouse resulting in excessive or abnormal expenditures or destruction, concealment, or fraudulent disposition of community property, joint tenancy, or other property held in common;

(7) the comparative financial resources of the spouses, including medical, retirement, insurance, or other benefits, and the separate property of each spouse;

(8) the contribution by one spouse to the education, training, or increased earning power of the other spouse during marriage or to the accumulation of income, earnings, or property during marriage;

(9) the property brought to the marriage by either spouse; and

(10) the efforts of the spouse seeking maintenance to pursue available employment counseling as provided by Chapter 159, Acts of the 65th Legislature, Regular Session, 1977 (Article 5221q, Vernon's Texas Civil Statutes).

Sec. 3.83. PRESUMPTION. (a) Except as provided by Subsection (b) of this section, it is presumed that maintenance is not warranted unless the spouse seeking maintenance rebuts the presumption by proof that he or she has exercised diligence in:

(1) seeking suitable employment; or

(2) developing the necessary skills to become self-supporting during any period of separation and during pendency of the divorce suit.

(b) This section does not apply to a spouse who:

(1) is not able to rebut the presumption in Subsection (a) of this section because of an incapacitating physical or mental disability which first manifested itself during the marriage; or

(2) is the custodian of a child who requires substantial care and personal supervision because a physical or mental disability makes it necessary, taking into consideration the needs of the child, that the spouse not be employed outside the home.

Sec. 3.84. DURATION OF MAINTENANCE ORDER. (a) Except as provided by Subsection (b) of this section, a court shall limit the duration of a maintenance order to the shortest reasonable period of time that allows the spouse seeking maintenance to meet the spouse's minimum reasonable needs by obtaining appropriate employment or developing an appropriate skill, not to exceed three years from the rendition of the judgment, decree, or order.

(b) If a spouse seeking maintenance is unable to support his or her minimum reasonable needs through appropriate employment because of incapacitating physical or mental illness or through other resources or income, the court may order maintenance for an indefinite period for as long as the disability continues, not to exceed five years from the rendition of the judgment, decree, or order. The court may order periodic review of its order, on the request of either party or on its own motion, to determine whether the disability is continuing. The continuation of spousal maintenance under these circumstances is subject to a motion to modify as provided by Section 3.87 of this code.

Sec. 3.85. AMOUNT OF MAINTENANCE. (a) A court may not enter a maintenance order that requires a spouse to pay more per month than the lesser of:

(1) \$1500; or

(2) 25 percent of the spouse's average monthly net resources as that term is defined in Section 14.053(b) of this code.

(b) A court may not enter an order that requires an obligor to pay child support and maintenance the combined total amount of which is more than 50 percent of that obligor's average monthly net resources as that term is defined in Section 14.053(b) of this code.

Sec. 3.86. TERMINATION. (a) The obligation to pay future maintenance terminates on the death of either party or on the remarriage of the party receiving maintenance.

(b) After a hearing the court shall terminate the maintenance order if the party receiving maintenance cohabits with another person in a permanent place of abode on a continuing conjugal basis.

Sec. 3.87. ESTABLISHMENT AND MODIFICATION OF MAINTENANCE ORDER. (a) A court may only enter an order instituting spousal maintenance in the original decree of divorce, of annulment, or to declare a marriage void or in an order resulting from a proceeding for maintenance in a court with personal jurisdiction over both former spouses following the dissolution of their marriage by a court that lacked personal jurisdiction over an absent spouse. The original decree or order may only be modified to reduce or terminate the amount or duration of the spousal maintenance. The original decree or order may not be modified to institute or increase the amount or duration of the spousal maintenance. A party affected by the order or decree to be modified may file the motion.

(b) Notice of a motion to modify maintenance and the response, if any, are governed by the Texas Rules of Civil Procedure applicable to the filing of an original lawsuit.

(c) After a hearing, the court may modify an original or modified order or decree providing for maintenance on a proper showing of a material and substantial change in circumstances of either party since the rendition of the prior judgment, decree, or order sought to be modified.

Sec. 3.88. ENFORCEMENT OF A MAINTENANCE ORDER. (a) The court may enforce by contempt its maintenance order or an agreement for the payment of maintenance voluntarily entered into between the parties and approved by the court.

(b) On the motion of a party entitled to receive maintenance payments, the court may render judgment against a defaulting party for an amount unpaid and owing after notice by service of citation, answer, if any, and a hearing finding that the defaulting party has failed or refused to carry out the terms of the order. The judgment may be enforced by any means available for the enforcement of judgments for debts.

(c) It is an affirmative defense to an allegation of contempt of court or of the violation of condition of probation requiring payment of court-ordered maintenance that the obligor:

(1) lacked the ability to provide maintenance in the amount ordered;

(2) lacked property that could be sold, mortgaged, or otherwise pledged to raise the funds needed;

(3) attempted unsuccessfully to borrow the needed funds; and

(4) did not know of a source from which the money could have been borrowed or otherwise legally obtained.

(d) The issue of the existence of an affirmative defense does not arise unless evidence is admitted supporting the defense. If the issue of the existence of an affirmative defense arises, an obligor must prove the affirmative defense by a preponderance of the evidence.

Sec. 3.89. PUTATIVE SPOUSE. In a suit to declare a marriage void, a putative spouse who did not have knowledge of an existing impediment to a valid marriage may be awarded maintenance if otherwise qualified to receive maintenance under this subchapter.

Sec. 3.891. UNMARRIED COHABITANTS. An order for maintenance is not authorized between unmarried cohabitants under any circumstances.

Sec. 3.892. FINDINGS IN MAINTENANCE ORDER. Without regard to Rules 296 through 299, Texas Rules of Civil Procedure, in any suit in which spousal maintenance is contested and the amount of maintenance is set by the court, on written request made or filed with the court not later than 10 days after the date of the hearing or on oral request made in open court during the hearing, the court shall state the following in the maintenance order:

(1) the duration of the marriage as of the date of the filing of the original petition;

(2) the facts and specific reasons supporting a finding, if such finding is made, that the obligee:

(A) lacks sufficient property or other resources or income to provide for the obligee's minimum reasonable needs;

(B) is unable to support himself or herself through appropriate employment because of an incapacitating physical or mental

disability which first manifested itself during the marriage or through other resources or income;

(C) is the custodian of a child who requires substantial care and personal supervision because a physical or mental disability makes it necessary, taking into consideration the needs of the child, that the spouse not be employed outside the home; or

(D) clearly lacks earning ability in the labor market or other resources or income adequate to provide support for the obligee's reasonable needs;

(3) the relevant factors considered and used to determine the nature, amount, duration, and manner of payments and the facts and specific reasons supporting each factor;

(4) the amount of maintenance payments per month; and

(5) the amount of net resources available to the obligor and available to the obligee as the term "net resources" is defined in Section 14.053(b) of this code.

The committee amendment was read.

On motion of Senator Harris of Tarrant and by unanimous consent, Committee Amendment No. 2 was withdrawn.

The bill was passed to third reading by a viva voce vote.

HOUSE BILL 831 ON THIRD READING

Senator Harris of Tarrant moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that H.B. 831 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Leedom.

The bill was read third time and was passed by a viva voce vote.

COMMITTEE SUBSTITUTE

HOUSE BILL 1149 ON SECOND READING

On motion of Senator Harris of Tarrant and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 1149, Relating to title to real estate interests and real property interests transferred by a receiver or conservator of a failed depository institution.

The bill was read second time and was passed to third reading by a viva voce vote.

COMMITTEE SUBSTITUTE

HOUSE BILL 1149 ON THIRD READING

Senator Harris of Tarrant moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be

suspended and that C.S.H.B. 1149 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Leedom.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

(Senator Truan in Chair)

HOUSE BILL 1441 ON SECOND READING

On motion of Senator Harris of Tarrant and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1441, Relating to the investment of funds by certain trustees in the securities of an open-end or closed-end management investment company or investment trust.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 1441 ON THIRD READING

Senator Harris of Tarrant moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 1441** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Leedom.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

(President in Chair)

SENATE BILL 1061 WITH HOUSE AMENDMENTS

Senator Parker called **S.B. 1061** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Amendment No. 1

Amend **S.B. 1061** as follows:

(1) In SECTION 6 of the bill, in amended Section 4, Chapter 94, Acts of the 51st Legislature, Regular Session, 1949 (Article 4512b, Vernon's Texas Civil Statutes), strike Subsection (c) and substitute the following:

(c) ~~[If the appropriate standing committees of both houses of the Legislature acting under Subsection (g), Section 5, Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes), transmit to the Board/commission statements~~

~~opposing adoption of a rule under that section, the rule may not take effect, or if the rule has already taken effect, the rule is repealed effective on the date the Board/commission receives the committee's statements.~~

~~[(d)] The Board shall adopt guidelines for educational preparation [and acceptable practices] for all aspects of the practice of chiropractic. The Board may not adopt a rule relating to the meaning of the practice of chiropractic under this Act except for:~~

~~(1) a rule relating to an adjustment, manipulation, or other procedure directly related to improving the subluxation of the spine or of the musculoskeletal system as it directly relates to improving the subluxation of the spine; or~~

~~(2) a rule that defines an unacceptable practice of chiropractic and provides for a penalty or sanction under this Act.~~

(2) In SECTION 21 of the bill, insert new Subsections (e), (f), and (g) to read as follows:

(e) Unless the rule has been readopted under Subsection (f) of this section, a rule of the Texas Board of Chiropractic Examiners adopted after December 31, 1988, and before the date the new members of the Texas Board of Chiropractic Examiners begin performing the functions of the board as provided by Subsection (a) of this section, expires on September 1, 1994, except for a rule relating to:

(1) procedures for the conduct of a contested case held under the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes); or

(2) internal operating procedures.

(f) After the date the new members of the Texas Board of Chiropractic Examiners begin performing the functions of the board as provided by Subsection (a) of this section, the board shall initiate rulemaking proceedings to review and, if necessary, to amend or readopt a rule scheduled for expiration as provided by Subsection (e) of this section. The rulemaking provisions of Chapter 94, Acts of the 51st Legislature, Regular Session, 1949 (Article 4512b, Vernon's Texas Civil Statutes), and the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes) apply to the amendment or readoption of a rule under this subsection.

(g) Not later than December 1, 1994, the Texas Board of Chiropractic Examiners shall submit a report to the governor, lieutenant governor, and speaker of the house of representatives on the results of the review and rulemaking actions undertaken under Subsection (f) of this section.

Amendment No. 2

Amend S.B. 1061 as follows:

In SECTION 17, Section 12a insert the following between the first and second sentences:

"The records of a chiropractic facility that directly or indirectly identify a present, former, or proposed patient of a doctor of chiropractic are confidential unless disclosure is permitted by other state law."

Amendment No. 3

Amend S.B. 1061 as follows:

Add a new SECTION 19 of the bill to read as follows and renumber the subsequent sections appropriately:

Chapter 94, Acts of the 51st Legislature, Regular Session, 1949 (Article 4512b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 14a. The Texas Board of Chiropractic Examiners may refuse to admit persons to its examinations and may cancel, revoke or suspend licenses or place licensees upon probation for such length of time as may be deemed proper by the Board for any one or more of the following causes:

1. For failure to comply with, or the violation of, any of the provisions of this Act or of a rule adopted under this Act;

2. If it is found that said person or persons are in any way guilty of deception or fraud in the practice of chiropractic;

3. The presentation to the Board or use of any license, certificate or diploma, which was illegally or fraudulently obtained, or the presentation to the Board of any untrue statement or any document or testimony which was illegally practiced in passing the examination;

4. Conviction of a crime of the grade of a felony, or one which involves moral turpitude, or the procuring or assisting in the procuring of an abortion;

5. Grossly unprofessional conduct or dishonorable conduct of a character likely to deceive or defraud the public, habits of intemperance or drug addiction, or other habits calculated in the opinion of the Board to endanger the lives of patients;

6. The use of any advertising statement of a character to mislead or deceive the public;

7. Employing or associating with, directly or indirectly, any person who, during the period of such employment, commits any act constituting the practice of chiropractic when such person is not licensed to do so;

8. The advertising of professional superiority, or the advertising of the performance of professional services in a superior manner;

9. The purchase, sale, barter, use, or any offer to purchase, sell, barter, or use, any chiropractic degree, license, certificate, or diploma, or transcript of license, certificate, or diploma in or incident to an application to the Board of Chiropractic Examiners for license to practice chiropractic;

10. Altering with fraudulent intent any chiropractic license, certificate or diploma, or transcript of chiropractic license, certificate or diploma;

11. The impersonation of, or acting as proxy for, another in any examination required by this Act for a chiropractic license;

12. The impersonation of a licensed practitioner, or the permitting or allowing another to use his license or certificate to practice chiropractic as defined by statute by a licensed practitioner;

13. Proof of insanity of the holder of a certificate, as adjudged by the regularly constituted authorities;

14. Failure to use proper diligence in the practice of chiropractic by the holder of a certificate, or grossly inefficient practice of chiropractic;

15. Failing to clearly differentiate a chiropractic office or clinic from any other business or enterprise; ~~or~~

16. Personally soliciting patients, or causing patients to be solicited by the use of case histories of patients of other chiropractors; ~~or~~

17. Using an accident report prepared by a peace officer in a manner prohibited by law for the purpose of soliciting patients.

Amendment No. 4

Amend S.B. 1061 in Section 21 of the bill by striking Subsections (a), (b), and (c), inserting a new Subsection (a) to read as follows, and relettering the subsequent subsection appropriately:

(a) The changes in law made by this Act in the qualifications of and the prohibitions applying to, members of the Texas State Board of Chiropractic Examiners do not affect the entitlement of a member serving on the board immediately before the effective date of this Act to continue to carry out the functions of the board for the remainder of the member's term. The changes in law apply only to a member appointed on or after the effective date of this Act. This Act does not prohibit a person who is a member of the board on the effective date of this Act from being reappointed to the board if the person has the qualifications required for a member under the Chiropractic Act (Article 4512b, Vernon's Texas Civil Statutes), as amended by this Act.

The amendments were read.

Senator Parker moved that the Senate do not concur in the House amendments, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

Senator Patterson offered a substitute motion to concur in the House amendments to S.B. 1061.

On motion of Senator Parker, the motion to concur in the House amendments to S.B. 1061 was tabled by the following vote: Yeas 15, Nays 12.

Yeas: Barrientos, Carriker, Ellis, Haley, Lucio, Luna, Madla, Moncrief, Parker, Rosson, Truan, Turner, West, Whitmire, Zaffirini.

Nays: Armbrister, Bivins, Brown, Harris of Tarrant, Harris of Dallas, Nelson, Patterson, Ratliff, Shapiro, Shelley, Sims, Wentworth.

Absent: Henderson, Montford, Sibley.

Absent-excused: Leedom.

Question recurring on the motion to not concur in the House amendments, the motion prevailed by a viva voce vote.

The President asked if there were any motions to instruct the conference committee on S.B. 1061 before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Parker, Chair; Moncrief, Ellis, Wentworth, and Madla.

**NOTICE OF SESSION TO HOLD
LOCAL AND UNCONTESTED BILLS CALENDAR**

Senator Haley announced that a Local and Uncontested Bills Calendar had been placed on the Members' desks.

On motion of Senator Haley and by unanimous consent, Senate Rule 9.03(b) was suspended to give notice that a Local and Uncontested Bills Calendar would be held at 12:15 p.m. today and that all bills would be considered on second reading in the order in which they are listed.

PERMISSION TO MEET GRANTED

On motion of Senator Barrientos and by unanimous consent, the Committee on Nominations was granted permission to meet while the Senate was in session.

**SENATE RULE 11.19 SUSPENDED
(Posting Rule)**

On motion of Senator Armbrister and by unanimous consent, Senate Rule 11.19 was suspended in order that the Committee on Intergovernmental Relations might consider H.B. 1696 today.

RECESS

On motion of Senator Harris of Dallas, the Senate at 12:11 p.m. recessed until 12:15 p.m. today for the Local and Uncontested Bills Calendar.

AFTER RECESS

The Senate met at 12:15 p.m. and was called to order by Senator Haley.

LOCAL AND UNCONTESTED BILLS CALENDAR

The Presiding Officer announced that the time had arrived for consideration of the Local and Uncontested Bills Calendar.

Pursuant to Senate Rule 9.03(d), the following bills were laid before the Senate, read second time, amended where applicable, passed to engrossment/third reading, read third time, and passed (vote on Constitutional Three-Day Rule and final passage indicated after the caption of each bill):

S.C.R. 8 (Henderson) Granting John R. Phenix & Associates, Inc., permission to sue the State of Texas and the University of Houston System. (vv) (vv)

S.C.R. 22 (Luna) Granting Imagents, Inc., permission to sue the State of Texas and The University of Texas System. (vv) (vv)

S.C.R. 23 (Luna) Granting Imagents, Inc., permission to sue the State of Texas and The University of Texas System. (vv) (vv)

S.C.R. 40 (Armbrister on behalf of Haley) Requesting the Public Utility Commission of Texas to study the feasibility of establishing a differential rate structure for telephone services to our state's school districts. (vv) (vv)

S.C.R. 80 (Madla) Directing all state agencies that are involved in the provision of health and human services to people with disabilities to develop and implement policies to improve access to state services by persons with disabilities and to monitor compliance with these policies by their contracted service providers. (vv) (vv)

S.C.R. 90 (Barrientos) Granting American Health Advisors, Inc., permission to sue the State of Texas, and the University of Texas System, the University of Texas Health Science Center at Tyler, the University of Texas Medical Branch at Galveston, the University of Texas M.D. Anderson Cancer Center and those acting on behalf of such components of the University of Texas System as agents and employees. (vv) (vv)

S.C.R. 102 (Armbrister on behalf of Haley) Granting the Alabama-Coushatta Indian Tribe of Texas permission to sue the State of Texas. (vv) (vv)

H.B. 520 (Brown) Relating to the exclusion from coverage under the Texas Unemployment Compensation Act of services performed by certain landmen. (30-0) (30-0)

H.B. 605 (Carriker) Relating to the forfeiture of proceeds from the commission of certain offenses and to the compensation of crime victims. (30-0) (30-0)

H.B. 630 (Barrientos) Relating to hand signals for bicycle operators. (30-0) (30-0)

H.B. 728 (Henderson) Relating to certain annexations by a municipality with a population of more than 1.5 million. (30-0) (30-0)

H.B. 937 (Armbrister on behalf of Haley) Relating to a prohibition of certain discrimination regarding an employee who participates in an emergency evacuation. (30-0) (30-0)

H.B. 984 (Moncrief) Relating to the authority of certain state agencies to purchase liability insurance. (30-0) (30-0)

H.B. 1107 (Turner) Relating to the designation of a resident agent for acceptance of service of process in guardianship proceedings as qualification for the appointment of nonresident persons as guardians of resident wards. (30-0) (30-0)

C.S.H.B. 1138 (Montford) Relating to the term of office of a municipal judge. (30-0) (30-0)

H.B. 1297 (Ellis) Relating to persons appointed as friend of the court in cases involving child support or possession of or access to a child. (30-0) (30-0)

H.B. 1319 (Henderson) Relating to driver's licenses, permits, and resident and nonresident operating privileges. (30-0) (30-0)

C.S.H.B. 1444 (Henderson) Relating to the daily compensation of a retired judge serving as an assigned probate judge. (30-0) (30-0)

H.B. 1547 (Ellis) Relating to the appointment and election of commissioners of public housing authorities. (30-0) (30-0)

H.B. 1590 (Ellis) Relating to registration of interstate or foreign motor carriers for-hire. (30-0) (30-0)

H.B. 1844 (Wentworth) Relating to the sale and conveyance of a certain tract of State-owned real property in Travis County and providing for the use and disposition of the proceeds of such sale. (30-0) (30-0)

H.B. 1858 (Montford) Relating to the transfer of property interests owned in fee or used by easement from a political subdivision to one or more abutting property owners who own the underlying fee simple. (30-0) (30-0)

H.B. 1895 (Sibley) Relating to escrow accounts for the prepayment of fees required for permits authorizing the transportation of a vehicle and its load or a combination of vehicles and load exceeding legal size and weight limitations. (30-0) (30-0)

H.B. 2079 (Zaffirini) Relating to the enforcement of certain public health and safety laws. (30-0) (30-0)

Senator Zaffirini offered the following committee amendment to the bill:

Amend **H.B. 2079** as follows:

(1) On page 3, line 15, amend SECTION 4, Subsection (b)(2), after "platted" insert "or recorded".

(2) On page 4, line 2, amend SECTION 4, Subsection (c)(2), after "platted" insert "or recorded".

(3) On page 5, lines 18 through 24, amend SECTION 6, strike Subsection (a) and insert the following:

"(a) The change in law made by Section 232.0049, Local Government Code, as amended by this Act, applies only to a criminal offense committed on or after the effective date of this Act. For purposes of this section, a criminal offense is committed before the effective date of this Act if any element of the offense occurs before that date."

(4) On page 5, lines 25 through 27 and page 6, line 1, amend SECTION 6, strike Subsection (b) and insert the following:

"(b) A criminal offense committed before the effective date of this Act is covered by the law in effect when the criminal offense was committed, and the former law is continued in effect for that purpose."

The committee amendment was read and was adopted by a viva voce vote.

On motion of Senator Zaffirini and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

H.B. 2088 (Montford) Relating to the authority of a winery to give promotional bottles of wine to unlicensed persons in a civic center or convention center. (30-0) (30-0)

C.S.H.B. 2500 (Bivins) Relating to the powers, duties, and expansion of the City of Amarillo Hospital District; authorizing the creation of public debt. (30-0) (30-0)

H.B. 2761 (Turner) Relating to certain record keeping and reporting requirements in the criminal justice system. (30-0) (30-0)

C.S.H.B. 2766 (West) Relating to an audit of the proceeds of criminal asset forfeitures. (30-0) (30-0)

H.B. 2814 (Shapiro) Relating to the terms of directors of the Seis Lagos Utility District. (30-0) (30-0)

C.S.H.B. 2815 (Parker) Relating to the creation, administration, powers, duties, operation, and financing of the Chateau Woods Municipal Utility District and the abolition of the city of Chateau Woods. (30-0) (30-0)

H.B. 2817 (Zaffirini) Relating to the creation, administration, powers, duties, operation, and financing of the Presidio County Underground Water Conservation District. (30-0) (30-0)

Senator Zaffirini offered the following committee amendment to the bill:

Amend **H.B. 2817** by striking SECTION 9 of the bill and substituting the following language:

SECTION 9. TAXING AUTHORITY. The district may not levy or collect taxes on property in the district at a rate greater than five cents on the \$100 assessed valuation. The district may use tax revenues only to pay for the maintenance and operation of the district.

The committee amendment was read and was adopted by a viva voce vote.

On motion of Senator Zaffirini and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

H.B. 2828 (Armbrister) Relating to the creation, administration, powers, duties, operation, and financing of the Beach Road Municipal Utility District. (30-0) (30-0)

H.B. 2845 (Montford) Relating to the juvenile board of Castro, Hale, and Swisher counties. (30-0) (30-0)

H.B. 2854 (Henderson) Relating to the regulation by home-rule municipalities of streets, avenues, alleys, and boulevards on which certain residences are located. (30-0) (30-0)

H.B. 2862 (Carriker) Relating to the creation, administration, powers, duties, operation, and financing of the Haskell/Knox County Underground Water Conservation District. (30-0) (30-0)

H.B. 2869 (Patterson) Relating to terms of office of members of the board of commissioners of the Brazoria County Conservation and Reclamation District Number Three. (30-0) (30-0)

H.B. 2871 (Armbrister on behalf of Haley) Relating to the name of the County Court at Law of Angelina County. (30-0) (30-0)

H.C.R. 3 (Truan) Urging Governor Ann Richards to initiate discussion of mutual concerns involving the administration of judicial systems with the governors of Tamaulipas, Nuevo Leon, Coahuila, and Chihuahua. (vv) (vv)

H.C.R. 119 (Harris of Tarrant) Declaring the Texas State Museum of History in Arlington to be the official state history museum of Texas. (vv) (vv)

H.C.R. 126 (Sims) Requesting the United States Postal Service to issue a commemorative postage stamp during 1995 in recognition of Texas' 150 years of statehood. (vv) (vv)

H.C.R. 127 (Armbrister) Memorializing the Congress of the United States to enact legislation to authorize the United States Department of Agriculture to sell processed, previously-redeemed, discontinued, and no-longer negotiable food stamps to the public for numismatic purposes. (vv) (vv)

**BILL AND RESOLUTION REMOVED FROM
LOCAL AND UNCONTESTED BILLS CALENDAR**

<u>Number</u>	<u>Senators Removing</u>
S.C.R. 72	West, Haley
H.B. 799	Parker, Haley

**CONCLUSION OF SESSION FOR
LOCAL AND UNCONTESTED BILLS CALENDAR**

The Presiding Officer announced that the session for consideration of the Local and Uncontested Bills Calendar was concluded.

RECESS

On motion of Senator Harris of Dallas, the Senate at 12:41 p.m. recessed until 2:00 p.m. today.

AFTER RECESS

The Senate met at 2:00 p.m. and was called to order by the President.

SENATE BILL 1425 WITH HOUSE AMENDMENT

Senator Parker called **S.B. 1425** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Floor Amendment No. 1

Amend **S.B. 1425** as follows:

(1) Strike the existing SECTION 3 on page 2, lines 18 thru 24, and replace it with a new SECTION 3 to read as follows:

SECTION 3. Section 6, Licensed Marriage and Family Therapist Act (Article 4512-c, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 6. OFFICERS. The governor shall designate from the members of the board the chair of the board. The member designated as the chair serves in that capacity at the will of the governor. The board shall elect a [chair and] vice-chair from its members at the meeting of the board held closest to August 31 of each year. The [chair and] vice-chair shall serve as provided by board rules.

(2) Strike the existing SECTIONS 10 and 11 on pages 11 and 12.

(3) Amend SECTION 13 on page 13, lines 20 thru 24, by striking the language beginning with the comma on line 20 and ending before the period on line 24.

(4) Amend SECTION 17 on page 20, line 9, to add the following new sentence to the end of the subsection to read "The board may extend the 180-day deadline to allow for the receipt and tabulation of pending examination results."

(5) Renumber the sections of the bill accordingly.

The amendment was read.

On motion of Senator Parker and by unanimous consent, the Senate concurred in the House amendment to S.B. 1425 by a viva voce vote.

CONFERENCE COMMITTEE ON HOUSE BILL 1113

Senator Parker called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on H.B. 1113 and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the conference committee on H.B. 1113 before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Parker, Chair; Ellis, Harris of Dallas, Harris of Tarrant, and Armbrister.

(Senator Parker in Chair)

HOUSE BILL 1643 ON SECOND READING

On motion of Senator Lucio and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1643, Relating to the commercial transportation of aquatic products.

The bill was read second time.

(Senator Shelley in Chair)

(President in Chair)

Senator Lucio offered the following committee amendment to the bill:

Committee Amendment

Amend H.B. 1643 as follows:

1.) Page 1, line 6 and 7, delete “other than a common carrier shipping under Interstate Commerce Commission rules.”

2.) Page 1, line 10, after “subchapter” insert This subsection has no application to a common carrier shipping under Interstate Commerce Rules.

3.) Page 1, line 11 and 12, delete “other than a common carrier shipping under Interstate Commerce Commission rules.”

4.) Page 1, line 15, after “license.” insert This subsection has no application to a common carrier shipping under Interstate Commerce Rules.

5.) Page 3, line 2, insert the following:

(b) No person may ship finfish in individual packages that contain more than one species of aquatic life. This subsection does not apply to finfish shipped into the state through an international port of entry by truck and consigned to a wholesale fish dealer that is located less than 30 miles from the Texas-Mexico Border. The exemption provided by this subsection does not exempt the business from inspection under this chapter.

The committee amendment was read.

Senator Lucio offered the following amendment to the committee amendment:

Floor Amendment

Amend the committee amendment to H.B. 1643 as follows:

Page 1, line 36, delete “30” and insert 10

The amendment to the committee amendment was read and was adopted by a viva voce vote.

Question recurring on the adoption of the committee amendment as amended, the amendment as amended was adopted by a viva voce vote.

On motion of Senator Lucio and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

HOUSE BILL 1643 ON THIRD READING

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that H.B. 1643 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Leedom.

The bill was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2134 ON SECOND READING**

On motion of Senator Parker and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 2134, Relating to payroll deductions for employees of state agencies; making an appropriation.

The bill was read second time and was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1462 ON SECOND READING**

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 1462, Relating to the disclosure of certain information about certain patients of a physician.

The bill was read second time.

Senator Wentworth offered the following amendment to the bill:

Amend **C.S.H.B. 1462** by striking everything below the enacting clause and substituting the following:

SECTION 1. Section 576.005, Health and Safety Code, is amended to read as follows:

Sec. 576.005. **CONFIDENTIALITY OF RECORDS.** (a) Records of a mental health facility that directly or indirectly identify a present, former, or proposed patient are confidential unless disclosure is permitted by other state law.

(b) If a treating physician determines that it is in the best interest of a patient under the treating physician's care, the treating physician may disclose necessary information that may identify the patient, but only to a:

(1) law enforcement officer; or

(2) the patient's legally authorized representative.

(c) A disclosure under Subsection (b) may not be made if the patient gives contrary written instructions to the treating physician.

(d) For the purposes of this section "legally authorized representative" means:

(A) a parent or legal guardian if the patient is a minor, a legal guardian if the patient has been adjudicated incompetent to manage the patient's personal affairs;

(B) an agent of the patient authorized under a durable power of attorney for health care;

(C) an attorney ad litem appointed for the patient; or

(D) a parent, spouse, adult child, or personal representative if the patient is deceased.

SECTION 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house to be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Wentworth and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1462 ON THIRD READING**

Senator Wentworth moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that C.S.H.B. 1462 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Leedom.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 2623 ON SECOND READING

On motion of Senator Sims and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 2623, Relating to the definition of by-product materials and naturally occurring radioactive materials.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 2623 ON THIRD READING

Senator Sims moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that H.B. 2623 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Leedom.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

CONFERENCE COMMITTEE ON HOUSE BILL 393

Senator Armbrister called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on H.B. 393 and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the conference committee on H.B. 393 before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Armbrister, Chair; Haley, Madla, Montford, and Bivins.

HOUSE BILL 2605 ON SECOND READING

On motion of Senator Armbrister and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 2605, Relating to collection and use of fees by, and management of the funds of, the water commission.

The bill was read second time.

Senator Armbrister offered the following committee amendment to the bill:

Amend **H.B. 2605** by renumbering Sections 4 through 6 as Sections 12 through 15 and adding new Sections 4 through 11 to read as follows:

SECTION 4. Subsection (b), Section 26.0135, Water Code, is amended to read as follows:

(b) The commission [~~Texas Water Commission~~] shall apportion, assess, and recover the reasonable costs of administering water quality management programs under this section from all users of water and wastewater permit holders in the watershed according to the records of the commission generally in proportion to their right through permit or contract, to use water from and discharge wastewater in the watershed. The costs to river authorities and others to conduct regional water quality assessment shall be subject to prior review and approval by the commission as to methods of allocation and total amount to be recovered. The commission shall adopt rules to supervise and implement the water quality assessment and associated costs. The rules shall ensure that water users and wastewater dischargers do not pay excessive amounts, that a river authority may recover no more than the actual costs of administering the water quality management programs called for in this section, and that no municipality shall be assessed costs for any efforts that duplicate water quality management activities described in Section 26.177 of this chapter. Costs recovered by the commission are to be deposited to the water quality fund and are appropriated to the commission for the administration of this section and the implementation of regional water quality assessments.

SECTION 5. Subsection (c), Section 26.0291, Water Code, is amended to read as follows:

(c) The fees collected under this section shall be deposited in a special fund in the state treasury to be known as the water quality [~~waste treatment facility inspection fee~~] fund. Money in the fund shall be used as follows:

(1) to supplement any other funds available for paying expenses of the commission in inspecting waste treatment facilities;

(2) to pay for the issuance and renewal of certificates of competency under and to administer Section 26.0301 of this code; and

(3) to pay for processing plans or amendments to plans and inspecting the construction of projects under those plans pursuant to Section 26.0461 of this code and rules of the commission adopted under Sections 26.046 and 26.0461 of this code.

SECTION 6. Subsection (e), Section 26.0301, Water Code, is amended to read as follows:

(e) The commission by rule shall set a fee to be paid by each applicant or licensee on the issuance or renewal of a certificate of competency under this section. The amount of the fee is determined according to the costs of the commission in administering this section, but may not exceed \$25 annually for an individual wastewater treatment plant operator and \$500 annually for a wastewater treatment facility operations company. The commission shall deposit any fees collected under this subsection in the state treasury to the credit of the water quality [~~waste treatment facility inspection~~] fund.

SECTION 7. Subsection (b), Section 26.0461, Water Code, is amended to read as follows:

(b) A fee collected under this section shall be deposited in the State Treasury to the credit of the water quality [~~waste treatment facility inspection~~] fund.

SECTION 8. Sections 370.007-370.008, Health and Safety Code, are amended to read as follows:

Sec. 370.007. TOXIC CHEMICAL RELEASE REPORTING ~~Funds~~. [~~Fund~~]. (a) ~~Toxic~~ [~~The toxic~~] chemical release reporting ~~funds~~ [~~fund~~] consists of money collected by the commission from:

(1) fees imposed on owners and operators of facilities required to submit a toxic chemical release form; and

(2) penalties imposed under this chapter.

(b) The commission may use the money collected under this chapter [~~and deposited in the fund~~] to pay for:

(1) costs incurred by the commission in implementing this chapter; and

(2) other commission activities necessary to implement the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. Section 11001 et seq.).

Sec. 370.008. Disposition of [~~Toxic Chemical Release Form Reporting~~] FEES. (a) The owner or operator of a facility required to submit a toxic chemical release form under this chapter shall pay, at the time of the submission, a fee of \$25 for each toxic chemical release form submitted.

(b) The maximum fee for a facility may not exceed \$250.

(c) The commission by rule may increase or decrease the toxic chemical release form reporting fee as necessary.

(d) Fees collected under this section shall be deposited in the state treasury to the credit of the hazardous and solid waste fee [~~toxic chemical release reporting~~] fund.

SECTION 9. The following funds and accounts, and revenues authorized to be deposited to these funds and accounts, are exempt from the provisions of Subsection (b), Section 403.094, Government Code. Except as amended by this Act, these funds and accounts are dedicated to the purposes for which they were established under the applicable provisions of law. The comptroller may, with the concurrence of the treasurer, establish any of the following funds as dedicated accounts in the general revenue fund, provided that such accounts maintain any attributes authorized under provisions of law.

- (1) solid waste disposal fee fund authorized under Sections 361.013-014, Health and Safety Code;
- (2) waste tire recycling fund authorized under Sections 361.474-475, Health and Safety Code;
- (3) water well drillers fund authorized under Sections 32.014 and 33.012, Water Code;
- (4) used oil recycling fund authorized under Section 371.061, Health and Safety Code;
- (5) clean air fund authorized under Section 382.0622, Health and Safety Code;
- (6) water quality fund authorized under Section 5.235(f), Water Code and Sections 26.0291, 26.0301 and 26.0461, Water Code, as amended by this Act;
- (7) water rights administration fund authorized under Section 12.113, Water Code;
- (8) water utility fund authorized under Section 5.235, Water Code;
- (9) spill response fund authorized under Section 26.265, Water Code;
- (10) Texas irrigators fund authorized under Section 34.005, Water Code;
- (11) hazardous and solid waste fees fund authorized under Sections 361.132 and 370.008, Health and Safety Code, as amended by this Act;
- (12) hazardous and solid waste remediation fee fund authorized under Section 361.133, Health and Safety Code;
- (13) storage tank fund authorized under Section 26.358, Water Code and Section 8, Article 8900, V.A.C.S.; and
- (14) petroleum storage tank remediation fund authorized under Section 26.3573, Water Code.

SECTION 10. The funds and accounts described in Section 9 of this Act are further exempt from any provision of Subsection (b), Section 403.095, Government Code that would authorize the expenditure or transfer of dedicated revenues inconsistent with Section 9 of this Act. Nothing in this section shall otherwise limit the authority of the legislature to appropriate funds from any fund or account.

SECTION 11. The waste treatment facility inspection fund and the toxic chemical release reporting fund are abolished effective September 1, 1993.

The committee amendment was read and was adopted by a viva voce vote.

On motion of Senator Armbrister and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

HOUSE BILL 2605 ON THIRD READING

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 2605** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Leedom.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

(Senator Parker in Chair)

HOUSE BILL 822 ON SECOND READING

On motion of Senator Whitmire and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 822, Relating to municipal civil service and the validation of government acts and proceedings regarding certain civil service systems.

The bill was read second time.

Senator Carriker offered the following amendment to the bill:

Amend **H.B. 822** as follows:

(1) In Section 1 of the bill, in Section 143.002(1)(C), Local Government Code, as amended by the bill, between "this chapter" and the semicolon, insert "under Section 143.004 or the law codified by Section 143.004".

(2) Add the following appropriately numbered section of the bill and renumber existing sections of the bill appropriately:

SECTION _____. Section 143.004(e), Local Government Code, is amended to read as follows:

(e) If the governing body of a municipality that has operated under this chapter for at least one year receives a petition requesting an election to repeal this chapter that is signed by at least 10 percent of the qualified voters of the municipality, the governing body shall order an election submitting to the voters the question on whether this chapter should be repealed. If a majority of the qualified voters of the municipality vote to repeal this chapter, this chapter is void in that municipality. In this subsection, "a majority of the qualified voters of the municipality" means a majority of the total number of the municipality's registered voters, not a majority of the number of voters who vote in the election.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Whitmire and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

HOUSE BILL 822 ON THIRD READING

Senator Whitmire moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 822** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Leedom.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
HOUSE BILL 203 ON SECOND READING**

On motion of Senator Montford and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 203, Relating to repealing the tax imposed on the intangible value of the transportation operation of certain businesses.

The bill was read second time.

Senator Montford offered the following amendment to the bill:

Amend **C.S.H.B. 203** as follows:

(1) Delete SECTION 1 and insert in its place the following:

SECTION 1. Subchapter A, Chapter 24, Tax Code, is repealed.

(2) Delete SECTION 2 and renumber the remaining sections accordingly.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Montford and by unanimous consent the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 203 ON THIRD READING**

Senator Montford moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.H.B. 203** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Leedom.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 2749 ON SECOND READING

On motion of Senator Madla and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 2749, Relating to services and issuance of non-certified papers and other documents by county clerks.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 2749 ON THIRD READING

Senator Madla moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 2749** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Leedom.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 2751 ON SECOND READING

On motion of Senator Madla and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 2751, Relating to the issuance of certain documents by county clerks.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 2751 ON THIRD READING

Senator Madla moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 2751** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Leedom.

The bill was read third time and was passed by a viva voce vote.

COMMITTEE SUBSTITUTE

HOUSE BILL 2509 ON SECOND READING

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 2509, Relating to the operation of a park and recreation district in certain counties.

The bill was read second time.

Senator Wentworth offered the following amendment to the bill:

Amend **C.S.H.B. 2509** as follows:

(1) On page 2, line 51, strike "and beverage".

(2) On page 2, Section 11, delete Subsections (b) and (c), substitute a new Subsection (b) to read as follows and renumber the succeeding subsections accordingly:

(b) ~~[The board may contract with law enforcement officers and attorneys to enforce its rules.]~~ A police officer, constable, sheriff, or other law enforcement officer with jurisdiction in the county may arrest persons violating rules or ordinances of the board, ~~[serve warrants on persons accused of violating an ordinance of the board,]~~ and carry out prosecution of those persons in the proper court.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Wentworth and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2509 ON THIRD READING**

Senator Wentworth moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.H.B. 2509** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Leedom.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 711 ON SECOND READING

On motion of Senator Sibley and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 711, Relating to the storage and sale of certain vehicles.

The bill was read second time.

Senator Sibley offered the following amendment to the bill:

Amend **H.B. 711** as follows:

(1) Add a new Section 2 to read as follows:

SECTION 2. This Act and **H.B. 2297**, Acts of the 73rd Legislature, Regular Session, 1993, do not affect:

(a) a matter involved in litigation that is pending on the effective date of this Act; or

(b) a dispute in relation to property that is the subject of an eminent domain proceeding on the effective date of this Act.

(2) Renumber all subsequent sections.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Sibley and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

(President in Chair)

HOUSE BILL 711 ON THIRD READING

Senator Sibley moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 711** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Leedom.

The bill was read third time and was passed by a viva voce vote.

HOUSE BILL 1872 ON SECOND READING

On motion of Senator Whitmire and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1872, Relating to certain building projects as enterprise zone projects.

The bill was read second time.

(Senator Shelley in Chair)

Senator Whitmire offered the following amendment to the bill:

Amend **H.B. 1872** as follows:

(1) On page 5, between lines 13 and 14, insert the following:

SECTION 4. Section 21(o), Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes), is amended to read as follows:

(o) The association has other powers as established by law or regulation, as well as all powers available to similar corporations under state law. The association may enter into contracts and participate in joint ventures with the state or a state agency or institution. The association may receive money without approval of the governing body.

(2) Renumber Section 4 of the bill as Section 5.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Whitmire and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

HOUSE BILL 1872 ON THIRD READING

Senator Whitmire moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 1872** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Leedom.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 496 ON SECOND READING

On motion of Senator Rosson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 496, Relating to platting requirements for certain municipalities.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 496 ON THIRD READING

Senator Rosson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 496** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Leedom.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 1884 ON SECOND READING

On motion of Senator Sibley and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1884, Relating to cooperative agreements among hospitals.

The bill was read second time.

(President in Chair)

Senator Parker offered the following amendment to the bill:

Amend **H.B. 1884**, page 4, line 22, as follows:

Between "DATE," and "The", by adding (a) This Act specifically excludes ground and/or air ambulance services. and by referring to the existing language after "services," as (b).

The amendment was read and was adopted by the following vote: Yeas 20, Nays 9.

Yeas: Armbrister, Barrientos, Carriker, Ellis, Haley, Harris of Tarrant, Lucio, Luna, Madla, Moncrief, Montford, Parker, Ratliff, Rosson, Shapiro, Shelley, Truan, West, Whitmire, Zaffirini.

Nays: Bivins, Brown, Harris of Dallas, Henderson, Nelson, Patterson, Sibley, Turner, Wentworth.

Absent: Sims.

Absent-excused: Leedom.

On motion of Senator Sibley and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

(Senator Ellis in Chair)

HOUSE BILL 1884 ON THIRD READING

Senator Sibley moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 1884** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Leedom.

The bill was read third time and was passed by a viva voce vote.

MESSAGE FROM THE HOUSE

House Chamber
May 26, 1993

Mr. President: I am directed by the House to inform the Senate that the House has passed the following:

S.B. 112, Relating to the regulation of outdoor signs in certain areas of certain counties; providing a penalty. (As amended)

S.B. 123, Relating to disposition by a decree of divorce or annulment of a beneficial interest in insurance or of benefits under a retirement plan or other financial plan.

S.B. 211, Relating to illegal remuneration; creating an offense; providing criminal penalties; making an appropriation.

S.B. 264, Relating to the administration of police officer retirement systems in certain municipalities.

S.B. 270, Relating to the form in which a person may provide a copy, summary, or narrative of a patient's medical records.

S.B. 286, Relating to the creation of the HIV/AIDS Interagency Coordinating Council.

S.B. 444, Relating to extension of time for completion of and exception from continuing education requirements for certain insurance agents.

S.B. 529, Relating to the investment of public funds in collateralized mortgage obligations.

S.B. 544, Relating to the right of the attorney general to sue for forfeiture of certain bonds and to the disposition of the bond money.

S.B. 551, Relating to excluding certain sums related to asset-backed securities from the definition of interest. (As amended)

S.B. 562, Relating to civil, criminal, and administrative penalties under the Texas Food, Drug, Device, and Cosmetic Salvage Act.

S.B. 565, Relating to the licensure of food manufacturers and wholesale food distributors.

S.B. 668, Relating to the ad valorem tax rate of certain taxing units.

S.B. 814, Relating to the xeriscape landscaping of state buildings and roadside parks, to the establishment of a xeriscape assistance program, and to county and municipal xeriscape assistance.

S.B. 867, Relating to the location of certain justice of the peace courts. (As substituted)

S.B. 894, Relating to the administration of motor fuel taxes. (As substituted)

S.B. 901, Relating to the award of a certificate of number and the collection of certain taxes by an authorized agent of the Parks and Wildlife Department.

S.B. 914, Relating to the appointment of the directors of the Valley Acres Water District.

S.B. 926, Relating to the inspection of certain motor vehicles.

S.B. 1023, Relating to duties and liabilities of operators of roller-skating centers, roller skaters, and spectators at those centers.

S.B. 1030, Relating to creation and operation of a water bank and establishment and collection of fees associated thereto. (As amended)

S.B. 1094, Relating to the regulation of professional manicuring and facial specialty schools and the imposition of fees by the Texas Cosmetology Commission. (As amended)

S.B. 1101, Relating to application and eligibility for AFDC benefits and services.

S.B. 1128, Relating to the minimum population requirements for allowing peace officers to enforce state and federal hazardous materials regulations and state and federal motor carriers safety regulations.

S.B. 1184, Relating to community/junior colleges and upper-level universities or centers located in the same state uniform service region and to partnership agreements between those colleges and universities or centers.

S.B. 1271, Relating to the establishment of an intercept program to increase the credit rating of certain local government debt and authorizing the comptroller of public accounts to withhold local government funds to pay such obligations under certain circumstances. (As amended)

S.B. 1273, Relating to the issuance of obligations by certain issuers and the execution of credit agreements relating to the obligations.

S.B. 1295, Relating to a refund of certain ad valorem taxes. (As amended)

S.B. 1314, Relating to the creation of a multicounty statutory county court composed of Fisher and Nolan counties. (As amended)

S.B. 1355, Relating to special license plates for members of certain nonprofit organizations.

S.B. 1356, Relating to the Texas Department of Housing and Community Affairs.

S.B. 1363, Relating to the provision of educational materials in the public schools to blind or visually handicapped students.

S.B. 1392, Relating to establishment of the Texas Coastal Ocean Observation Network for collection of coastal management data.

S.B. 1421, Relating to the regulation of food service establishments, retail food stores, mobile food units, or temporary food service establishments not regulated by counties or public health districts; providing penalties.

S.B. 1472, Relating to the authority of the Lubbock County Hospital District to render primary care, emergency services, preventive medicine services, and other health related services.

S.B. 1482, Relating to the creation of municipal courts of record in Arlington.

S.B. 1488, Relating to the installation and repair of water well pumps and equipment.

S.C.R. 51, Urging the State Board of Education to endorse the World Wise School Program.

S.C.R. 71, Designating the City of Denton as the Redbud Capital of Texas.

S.C.R. 88, Requesting that the public institutions of higher education report their current efforts in developing or providing health or human service care to the people of Texas to the Higher Education Coordinating Board.

S.C.R. 99, Declaring the City of Fredericksburg the Polka Capital of Texas.

H.C.R. 162, Directing the House Enrolling Clerk to make a correction to **H.B. 1116**.

H.C.R. 163, Commending Paul M. Vazaldua for his contributions to voter education.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

CONFERENCE COMMITTEE ON HOUSE BILL 1630

Senator Harris of Tarrant called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **H.B. 1630** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the conference committee on **H.B. 1630** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Harris of Tarrant, Chair; Henderson, Sibley, Shapiro, and Parker.

HOUSE BILL 1224 ON SECOND READING

On motion of Senator Carriker and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1224, Relating to the creation of a county court at law in Wilbarger County.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 1224 ON THIRD READING

Senator Carriker moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 1224** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Leedom.

The bill was read third time and was passed by a viva voce vote.

(President in Chair)

HOUSE BILL 2480 ON SECOND READING

On motion of Senator Brown and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 2480, Relating to provisions in an automobile rental agreement.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 2480 ON THIRD READING

Senator Brown moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 2480** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Leedom.

The bill was read third time and was passed by a viva voce vote.

HOUSE BILL 1803 ON SECOND READING

On motion of Senator Brown and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1803, Relating to the regulation of outdoor signs in the extraterritorial jurisdiction of municipalities in certain counties; providing a penalty.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 1803 ON THIRD READING

Senator Brown moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 1803** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Leedom.

The bill was read third time and was passed by a viva voce vote.

SENATE RESOLUTION 1079

Senator Armbrister offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, That Rule 12.03, Rules of the Senate, 73rd Legislature, is suspended, as provided by Senate Rule 12.08, to the extent described in this resolution, to enable the conference committee appointed to adjust the differences between the House and Senate versions of **S.B. 1132**, relating to payment of death benefits to certain peace officers of the State of Texas, to successfully conclude the committee's deliberations, by authorizing the conferees to consider and take action on the following specific matter:

Senate Rule 12.03(2), is suspended to permit the committee to omit the "(a)" after "SECTION 3." and to omit Subsections (b) and (c) of Section 3 of the bill.

This action is necessary to clarify the intent of the legislation to allow death benefit payments from the operation game thief fund without specific statutory limitation.

The resolution was read and was adopted by a viva voce vote.

HOUSE BILL 2663 ON SECOND READING

On motion of Senator Armbrister and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 2663, Relating to the powers and duties of the commissioners court.

The bill was read second time.

Senator Armbrister offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **H.B. 2663** by adding the following appropriately numbered sections:

SECTION 2. Section 133.082, Natural Resources Code, is amended to read as follows:

Sec. 133.082. CIVIL PENALTY. (a) A person or responsible party who violates this chapter or a rule or order adopted under this chapter after due notice is liable ~~[to the state]~~ for a civil penalty of not less than \$500 or more than \$5,000 for each act of violation on a first offense.

(b) A person or responsible party who violates this chapter or a rule or order adopted under this chapter after due notice is liable ~~[to the state]~~ for a civil penalty of not less than \$1,000 or more than \$10,000 for each act of violation on a second and subsequent offense.

SECTION 3. Section 133.083(a), Natural Resources Code, is amended to read as follows:

(a) The commission or a county in which a violation of this chapter or a rule or order adopted under this chapter is occurring or has occurred may enforce this chapter or a rule or order adopted under this chapter by injunction or other appropriate remedy.

SECTION 4. Section 133.084, Natural Resources Code, is amended to read as follows:

Sec. 133.084. RECOVERY OF COSTS. (a) A person responsible for a quarry or pit is liable to the state for customary, ordinary, and reasonable costs incurred by the commission in undertaking corrective or enforcement action under this chapter and for court costs and attorney's fees.

(b) A person responsible for a quarry or pit is liable to a county for customary, ordinary, and reasonable costs incurred by the county in undertaking enforcement action under this chapter and for court costs and attorney's fees.

SECTION 5. Section 133.085, Natural Resources Code, is amended by adding Subsection (d) to read as follows:

(d) A county in which a violation of this chapter or a rule or order adopted under this chapter is occurring or has occurred may bring suit for injunctive relief, civil penalty, or both, as appropriate, under this subchapter.

SECTION 6. Section 133.086, Natural Resources Code, is amended to read as follows:

Sec. 133.086. DISPOSITION OF PENALTIES AND COSTS. (a) Money collected under Section 133.082 or 133.084 of this code shall be deposited in the state treasury to the credit of the Texas aggregates quarry and pit safety fund.

(b) Money collected under Section 133.082 of this code in a suit brought by a county shall be retained by that county. Money collected under that section in a suit brought by the state shall be equally divided between the state and the county in which the violation occurred. The state shall deposit its share of the recovery in the state treasury to the credit of the Texas aggregates quarry and pit safety fund.

SECTION 7. Chapter 133, Natural Resources Code, is amended by adding Subchapter F to read as follows:

**SUBCHAPTER F. AUTHORITY TO REGULATE QUARRIES AND
PITS IN CERTAIN COUNTIES**

Sec. 133.091. COUNTY AUTHORITY TO REGULATE. A county with a population of 1 million or more may adopt regulations requiring the placement of safety devices on aggregate quarries and pits.

Sec. 133.092. AREA SUBJECT TO REGULATION. A regulation adopted under this subchapter applies only in the unincorporated area of the county.

Sec. 133.093. CONFLICT WITH COMMISSION RULE. If a regulation adopted under this subchapter conflicts with a commission rule, the commission rules prevail.

The committee amendment was read.

POINT OF ORDER

Senator Truan raised a point of order that the committee amendment amended the Natural Resources Code and the bill was concerning the Government Code, therefore the amendment was not germane to the bill.

The President ruled the point of order was well-taken and sustained.

Senator Armbrister offered the following amendment to the bill:

Floor Amendment No. 1

Amend H.B. 2663 as follows:

1. Insert the following new Subsection (9) to SECTION 1:

(9) may establish a least cost review program for public improvements to be constructed by use of personnel, equipment, or facilities of the governmental entity that may exceed a cost of \$100,000 or a lesser amount in the discretion of the governmental entity.

2. Insert the following new SECTION 2:

SECTION 2. Chapter 140, Local Government Code, is amended by adding Section 140.005 to read as follows:

Sec. 140.005. LEAST COST REVIEW PROGRAM. (a) To assist counties and other governmental entities, the state auditor in consultation with the comptroller of public accounts may develop, promulgate, and widely distribute forms, with instruction, for cost accounting for public improvements. The auditor and the comptroller shall consult with large and small governmental entities and the construction industry prior to the promulgation of the forms and instructions.

(b) The cost accounting forms shall be simple and concise and capable of being completed by the governmental entities at a minimum cost. The form shall provide a simple comparison of the cost of public improvements constructed by a governmental entity's personnel, equipment, or facilities and a competitive bid submitted by the private sector.

(c) The forms and instructions promulgated and distributed shall provide for cost comparisons by all governmental entities, including but not limited to counties, municipalities, special districts, and any other such entities that construct public improvements in-house. The cost comparison forms, with instruction, shall be promulgated and distributed by May 21, 1994.

3. Renumber subsequent sections appropriately.

The amendment was read and was adopted by a viva voce vote.

Senator Truan offered the following amendment to the bill:

Floor Amendment No. 2

Amend H.B. 2663 by striking Subsection (7) on lines 41 through 44 in its entirety and by substituting a new Subsection (7) in lieu thereof:

(7) use county road machinery and funds from the general fund or road and bridge funds in cleaning streams and in aiding flood control when such improvements are deemed to be of aid to the county in the maintenance and the building of county roads and have been approved by the river authority with jurisdiction over the stream and by the Texas Natural Resources Conservation Commission.

The amendment was read and adopted by viva voce vote.

On motion of Senator Armbrister and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

HOUSE BILL 2663 ON THIRD READING

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that H.B. 2663 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Leedom.

The bill was read third time and was passed by a viva voce vote.

HOUSE BILL 1968 ON SECOND READING

On motion of Senator Armbrister and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1968, Relating to the regulation of aggregate quarries and pits.

The bill was read second time.

(Senator Montford in Chair)

Senator Armbrister offered the following committee amendment to the bill:

Committee Amendment

Amend H.B. 1968 by inserting new Sections 7 through 12 and renumbering the remaining sections accordingly:

SECTION 7. Section 133.082, Natural Resources Code, is amended to read as follows:

Sec. 133.082. CIVIL PENALTY. (a) A person or responsible party who violates this chapter or a rule or order adopted under this chapter after due notice is liable ~~[to the state]~~ for a civil penalty of not less than \$500 or more than \$5,000 for each act of violation on a first offense.

(b) A person or responsible party who violates this chapter or a rule or order adopted under this chapter after due notice is liable ~~[to the state]~~ for a civil penalty of not less than \$1,000 or more than \$10,000 for each act of violation on a second and subsequent offense.

SECTION 8. Section 133.083(a), Natural Resources Code, is amended to read as follows:

(a) The commission or a county in which a violation of this chapter or a rule or order adopted under this chapter is occurring or has occurred may enforce this chapter or a rule or order adopted under this chapter by injunction or other appropriate remedy.

SECTION 9. Section 133.084, Natural Resources Code, is amended to read as follows:

Sec. 133.084. RECOVERY OF COSTS. (a) A person responsible for a quarry or pit is liable to the state for customary, ordinary, and reasonable costs incurred by the commission in undertaking corrective or enforcement action under this chapter and for court costs and attorney's fees.

(b) A person responsible for a quarry or pit is liable to a county for customary, ordinary, and reasonable costs incurred by the county in undertaking enforcement action under this chapter and for court costs and attorney's fees.

SECTION 10. Section 133.085, Natural Resources Code, is amended by adding Subsection (d) to read as follows:

(d) A county in which a violation of this chapter or a rule or order adopted under this chapter is occurring or has occurred may bring suit for injunctive relief, civil penalty, or both, as appropriate, under this subchapter.

SECTION 11. Section 133.086, Natural Resources Code, is amended to read as follows:

Sec. 133.086. DISPOSITION OF PENALTIES AND COSTS. (a) Money collected under Section 133.082 or 133.084 of this code shall be deposited in the state treasury to the credit of the Texas aggregates quarry and pit safety fund.

(b) Money collected under Section 133.082 of this code in a suit brought by a county shall be retained by that county. Money collected under that section in a suit brought by the state shall be equally divided between the state and the county in which the violation occurred. The state shall deposit its share of the recovery in the state treasury to the credit of the Texas aggregates quarry and pit safety fund.

SECTION 12. Chapter 133, Natural Resources Code, is amended by adding Subchapter F to read as follows:

**SUBCHAPTER F. AUTHORITY TO REGULATE QUARRIES AND
PITS IN CERTAIN COUNTIES**

Sec. 133.091. COUNTY AUTHORITY TO REGULATE. A county with a population of 2.4 million or more may adopt regulations requiring the placement of safety devices on aggregate quarries and pits.

Sec. 133.092. AREA SUBJECT TO REGULATION. A regulation adopted under this subchapter applies only in the unincorporated area of the county.

Sec. 133.093. CONFLICT WITH COMMISSION RULE. If a regulation adopted under this subchapter conflicts with a commission rule, the commission rule prevails.

The committee amendment was read.

Senator Shelley offered the following amendment to the committee amendment:

Floor Amendment No. 1

Amend the committee amendment to **H.B. 1968** as follows:

In Section 133.091 replace "2.4" with "1".

The amendment to the committee amendment was read and was adopted by a viva voce vote.

Question recurring on the adoption of the committee amendment as amended, the amendment as amended was adopted by the following vote: Yeas 16, Nays 10, Present-not voting 1.

Yeas: Bivins, Brown, Ellis, Haley, Henderson, Madla, Moncrief, Nelson, Parker, Patterson, Ratliff, Shelley, Turner, Wentworth, West, Whitmire.

Nays: Armbrister, Barrientos, Lucio, Luna, Rosson, Shapiro, Sibley, Sims, Truan, Zaffirini.

Present-not voting: Montford.

Absent: Carriker, Harris of Tarrant, Harris of Dallas.

Absent-excused: Leedom.

Senator Sims offered the following amendment to the bill:

Floor Amendment No. 2

Amend **H.B. 1968** as follows:

Amend SECTION 133.047, Natural Resources Code, by adding the following after the language in (b):

1) \$500 for an active aggregate quarry or pit;

2) \$500 for an inactive or abandoned aggregate quarry or pit unless the responsible party is a governmental entity in which case the fee shall be no more than \$350.

The amendment was read and adopted by a viva voce vote.

Senator Sims offered the following amendment to the bill:

Floor Amendment No. 3

Amend **H.B. 1968** by adding the following as SECTION 6 and renumbering present SECTIONS accordingly:

SECTION 6. Section 133.088, Natural Resources Code, is amended to read as follows:

Sec. 133.088. **GOVERNMENTAL [COUNTY] LIABILITY.** The provisions of this act shall not be construed to impose any liability upon a state governmental entity or county, or their [its] officers [s] or employees.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Armbrister and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

HOUSE BILL 1968 ON THIRD READING

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 1968** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Leedom.

The bill was read third time and was passed by a viva voce vote.

HOUSE CONCURRENT RESOLUTION 162

The Presiding Officer laid before the Senate the following resolution:

H.C.R. 162, Directing the House Enrolling Clerk to make a correction to **H.B. 1116**.

The resolution was read.

On motion of Senator Whitmire and by unanimous consent, the resolution was considered immediately and was adopted by a viva voce vote.

(Senator Brown in Chair)

MOTION TO PLACE**HOUSE BILL 2631 ON SECOND READING**

Senator Armbrister asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

H.B. 2631, Relating to commissioners court approval of certain budgets.

There was objection.

Senator Armbrister then moved to suspend the regular order of business and take up **H.B. 2631** for consideration at this time.

The motion was lost by the following vote: Yeas 6, Nays 24.

Yeas: Armbrister, Bivins, Montford, Nelson, Sibley, Wentworth.

Nays: Barrientos, Brown, Carriker, Ellis, Haley, Harris of Tarrant, Harris of Dallas, Henderson, Lucio, Luna, Madla, Moncrief, Parker, Patterson, Ratliff, Rosson, Shapiro, Shelley, Sims, Truan, Turner, West, Whitmire, Zaffirini.

Absent-excused: Leedom.

VOTE RECONSIDERED

On motion of Senator Sims and by unanimous consent, the vote by which **H.B. 2623** was finally passed was reconsidered.

Question—Shall **H.B. 2623** be finally passed?

Senator Truan offered the following amendment to the bill:

Floor Amendment No. 3

Amend H.B. 2623 by striking SECTION 3 on page 3 in its entirety and substituting in lieu thereof a new SECTION 3 amending Section 401.415(c), Health and Safety Code, to read as follows:

(c) To ensure that the State of Texas retains its Agreement Status with the U.S. Nuclear Regulatory Commission, and to ensure that radioactive materials are managed consistently to protect the public health and safety and the environment, the Railroad Commission of Texas shall issue rules on the management of oil and gas NORM by January 1, 1995 and in so doing shall consult with the Texas Natural Resources Conservation Commission and the Department of Health regarding protection of the public health and the environment. The rules of the Railroad Commission shall provide protection for public health, safety, and the environment equivalent to the protection provided by rules applicable to disposal of other NORM wastes having similar properties, quantities, and distribution, although the approved methods and sites for disposing oil and gas NORM wastes may be different from those approved for other NORM wastes.

By unanimous consent, the amendment was read and was adopted by a viva voce vote.

On motion of Senator Sims and by unanimous consent, the caption was again amended to conform to the body of the bill as amended.

The bill as amended was again finally passed by the following vote: Yeas 30, Nays 0.

Absent-excused: Leedom.

VOTES RECONSIDERED

On motion of Senator Whitmire and by unanimous consent, the vote by which H.B. 822 was finally passed was reconsidered.

Question—Shall H.B. 822 be finally passed?

On motion of Senator Whitmire and by unanimous consent, the vote by which the Three-Day Rule on H.B. 822 was suspended was reconsidered.

Question—Shall the Three-Day Rule be suspended?

On motion of Senator Whitmire and by unanimous consent, the vote by which H.B. 822 was passed to third reading was reconsidered.

Question—Shall the bill be passed to third reading?

On motion of Senator Whitmire and by unanimous consent, the vote by which Floor Amendment No. 1 by Senator Carriker to H.B. 822 was adopted was reconsidered.

Question—Shall the amendment be adopted?

(President in Chair)

On motion of Senator Shapiro, Floor Amendment No. 1 was tabled by the following vote: Yeas 19, Nays 11.

Yeas: Armbrister, Bivins, Brown, Haley, Harris of Tarrant, Harris of Dallas, Henderson, Montford, Nelson, Parker, Patterson, Ratliff, Shapiro, Shelley, Sibley, Sims, Turner, Wentworth, Zaffirini.

Nays: Barrientos, Carriker, Ellis, Lucio, Luna, Madla, Moncrief, Rosson, Truan, West, Whitmire.

Absent-excused: Leedom.

The bill was again passed to third reading by a viva voce vote.

HOUSE BILL 822 ON THIRD READING

Senator Whitmire again moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that H.B. 822 be placed on its third reading and final passage:

H.B. 822, Relating to municipal civil service and the validation of government acts and proceedings regarding certain civil service systems.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Leedom.

The bill was again read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 991 ADOPTED

Senator Harris of Dallas called from the President's table the Conference Committee Report on **H.B. 991**. The Conference Committee Report was filed with the Senate on Monday, May 24, 1993.

On motion of Senator Harris of Dallas, the Conference Committee Report was adopted by a viva voce vote.

COMMITTEE SUBSTITUTE HOUSE JOINT RESOLUTION 14 ON SECOND READING

The President laid before the Senate as postponed business **C.S.H.J.R. 14** on its second reading and passage to third reading, further consideration having been postponed until 2:30 p.m. today.

C.S.H.J.R. 14, Proposing a constitutional amendment increasing the maximum size of an urban homestead to 10 acres and prescribing permissible uses of urban and rural homesteads.

Question—Shall the resolution be passed to third reading?

VOTE RECONSIDERED

On motion of Senator Wentworth and by unanimous consent, the vote by which Floor Amendment No. 1 to **C.S.H.J.R. 14** was adopted on Tuesday, May 25, 1993, was reconsidered.

Question—Shall the amendment be adopted?

On motion of Senator Wentworth and by unanimous consent, Floor Amendment No. 1 was withdrawn.

Senator Wentworth offered the following amendment to the resolution:

Floor Amendment No. 2

Amend C.S.H.J.R. 14 by striking all below the resolving clause and substituting the following:

SECTION 1. Article XVI, Section 51, of the Texas Constitution is amended to read as follows:

Sec. 51. (a) The homestead, not in a town or city, shall consist of not more than two hundred acres of land, which may be in one or more parcels, with the improvements thereon; except as provided by Subsection (b) of this section, the homestead in a city, town, or village, shall consist of lot or lots amounting to not more than 10 acres ~~[one acre]~~ of land, together with any improvements on the land; provided, that the same shall be used for the purposes of a home, or as a place to exercise the calling or business of the homestead claimant, whether a single adult person, or the head of a family; and further provided that the homestead in a city, town, or village, to the extent the homestead in a city, town, or village exceeds one acre of land, must be a lot or contiguous lots used for the purposes of a home only and must be contiguous to that portion of the initial one acre of land used for purposes of the home; provided also, that any temporary renting of the homestead shall not change the character of the same, when no other homestead has been acquired.

(b) If a homestead in a city, town, or village of a family or of a single adult person consists of one or more lots containing a total of more than one acre, the head of the family, and, if married, that person's spouse, or the single adult person, as applicable, may voluntarily designate as the homestead in a city, town, or village not less than one acre of land but not more than 10 acres of land, including a residence occupied by the family or single adult person, and may waive homestead rights in any remaining property. The designation of a homestead in a city, town, or village that exceeds one acre of land, to the extent the designation of a homestead in a city, town, or village exceeds one acre of land, must be a lot or contiguous lots used for purposes of a home only and must be contiguous to that portion of the initial one acre of land used for purposes of the home. The legislature by law may establish requirements for a designation of homestead and rights of third persons to rely upon a designation of homestead.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 2, 1993. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment increasing the maximum size of an urban residential homestead to 10 acres."

The amendment was read and was adopted by a viva voce vote.

RECORD OF VOTE

Senator Brown asked to be recorded as voting "Nay" on the adoption of the amendment.

On motion of Senator Wentworth and by unanimous consent, the caption was amended to conform to the body of the resolution as amended.

The resolution as amended failed passage to third reading by the following vote: Yeas 14, Nays 14.

Yeas: Bivins, Harris of Tarrant, Harris of Dallas, Henderson, Luna, Madla, Nelson, Patterson, Shapiro, Shelley, Sims, Truan, Wentworth, Whitmire.

Nays: Barrientos, Brown, Carriker, Ellis, Haley, Lucio, Moncrief, Montford, Parker, Ratliff, Rosson, Turner, West, Zaffirini.

Absent: Armbrister, Sibley.

Absent-excused: Leedom.

HOUSE BILL 2016 ON SECOND READING

On motion of Senator Turner and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 2016, Relating to the regulation of the storage of hazardous liquids in salt dome storage facilities; providing civil and administrative penalties.

The bill was read second time.

Senator Parker offered the following amendment to the bill:

Floor Amendment No. 1

Amend **H.B. 2016**, page 2, Sec. 211.002, by inserting (c) and reletter accordingly:

(c) "Safety Standards or Practices" means any regulation of an activity or facility covered by this chapter or that is incompatible with the safety standards or practices enacted or adopted by Federal or State government pursuant to the Hazardous Liquid Pipeline Safety Act of 1979, as amended.

The amendment was read and was adopted by a viva voce vote.

Senator Truan offered the following amendment to the bill:

Floor Amendment No. 2

Amend **H.B. 2016** by striking Subsection (2) of Section 211.012(a) in its entirety and substituting in lieu thereof a new Subsection (2) to read as follows:

(2) the establishment of emergency notification procedures for the operator of a facility in the event of a release of a hazardous substance that poses a substantial risk to the public.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Turner and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

HOUSE BILL 2016 ON THIRD READING

Senator Turner moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 2016** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Leedom.

The bill was read third time and was passed by a viva voce vote.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 1200**

Senator Whitmire submitted the following Conference Committee Report:

Austin, Texas
May 25, 1993

Honorable Bob Bullock
President of the Senate

Honorable Pete Laney
Speaker of the House of Representatives

Sirs:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 1200** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

WHITMIRE
ARMBRISTER
HENDERSON
BROWN
CARRIKER

On the part of the Senate

S. THOMPSON
HILBERT
ZBRANEK
SCHECHTER
HARTNETT

On the part of the House

The Conference Committee Report was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 274**

Senator Barrientos submitted the following Conference Committee Report:

Austin, Texas
May 25, 1993

Honorable Bob Bullock

President of the Senate

Honorable Pete Laney

Speaker of the House of Representatives

Sirs:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on S.B. 274 have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

BARRIENTOS

ROSSON

NELSON

TRUAN

CARRIKER

On the part of the Senate

McDONALD

DELISI

HERNANDEZ

McCALL

CHISUM

On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to restroom facilities in places where the public congregates.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter D, Chapter 341, Health and Safety Code, is amended by adding Section 341.068 to read as follows:

Sec. 341.068. RESTROOM AVAILABILITY WHERE THE PUBLIC CONGREGATES. (a) Publicly and privately owned facilities where the public congregates shall be equipped with sufficient temporary or permanent restrooms to meet the needs of the public at peak hours.

(b) The board shall adopt rules to implement Subsection (a), including a rule that in providing sufficient restrooms a ratio of not less than 2:1 women's-to-men's restrooms or other minimum standards established in consultation with the Texas State Board of Plumbing Examiners shall be maintained if the use of the restrooms is designated by gender. The rules shall apply to facilities where the public congregates and on which construction is started on or after January 1, 1994, or on which structural alterations, repairs, or improvements exceeding 50 percent of the entire facility are undertaken on or after January 1, 1994.

(c) In this section:

(1) "Facilities where the public congregates" means sports and entertainment arenas, stadiums, community and convention halls, specialty event centers, and amusement facilities. The term does not include hotels, churches, restaurants, bowling centers, public or private elementary or secondary schools, or historic buildings.

(2) "Restroom" means toilet, chemical toilet, or water closet.

(d) The board may adopt rules consistent with Subsection (c)(1) to define "facilities where the public congregates."

SECTION 2. This Act takes effect September 1, 1993.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be

read on three several days in each house be suspended, and this rule is hereby suspended.

The Conference Committee Report was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 1132**

Senator Armbrister submitted the following Conference Committee Report:

Austin, Texas
May 26, 1993

Honorable Bob Bullock
President of the Senate

Honorable Pete Laney
Speaker of the House of Representatives

Sirs:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on S.B. 1132 have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

ARMBRISTER
SIMS
BROWN
SHELLEY
MONTFORD

BOMER
SAUNDERS
R. CUELLAR
B. TURNER

On the part of the Senate

On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to payment of death benefits to certain peace officers of the State of Texas.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 12.202, Parks and Wildlife Code, is amended to read as follows:

Sec. 12.202. OPERATION GAME THIEF COMMITTEE. (a) The director shall appoint an Operation Game Thief Committee composed of nine members to administer the operation game thief fund and to make reward payments and death benefit payments from that fund. The director shall appoint persons who are not employees of the department and who have a demonstrated interest in game and fish conservation. The director may consider the recommendations or nominations of any club or association. The director shall designate one of the members as chairman of the committee. The director or an employee designated by the director for that purpose shall serve as secretary to the committee. A member of the committee serves without compensation.

(b) Each member of the committee serves a term of six years. The terms of one-third of the members expire on January 31 of each odd-numbered year. The director may reappoint members.

(c) The committee shall meet at least two times each calendar year at the department's office in Austin. Five committee members must be present for approval of disbursement of rewards to eligible applicants and death benefit payments to eligible recipients.

SECTION 2. Section 12.204, Parks and Wildlife Code, is amended to read as follows:

Sec. 12.204. REWARDS; PAYMENTS. No amount in excess of that on deposit in the operation game thief fund is payable as a reward under this section or as a death benefit payment under Section 12.206 of this code. No reward may be granted to a person, or an immediate family member of a person, who is a peace officer, deputy game warden, prosecutor, employee of the department, or a member of the judiciary.

SECTION 3. Subchapter C, Chapter 12, Parks and Wildlife Code, is amended by adding Section 12.206 to read as follows:

Sec. 12.206. PAYMENT OF DEATH BENEFITS. The committee may use the operation game thief fund to supplement any death benefits received by the families of peace officers employed by the department who are killed in the line of duty. The committee shall adopt guidelines for the payment of death benefits under this section.

SECTION 4. This Act takes effect according to its terms September 1, 1993.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The Conference Committee Report was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 89

Senator Truan submitted the following Conference Committee Report:

Austin, Texas
May 25, 1993

Honorable Bob Bullock
President of the Senate

Honorable Pete Laney
Speaker of the House of Representatives

Sirs:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on S.B. 89 have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

TRUAN
MONCRIEF
ELLIS
ZAFFIRINI

On the part of the Senate

BERLANGA
McDONALD
COLEMAN
GLAZE

On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to establishing a birth defects registry.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle D, Title 2, Health and Safety Code, is amended by adding Chapter 87 to read as follows:

CHAPTER 87. BIRTH DEFECTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 87.001. DEFINITIONS. In this chapter:

(1) "Birth defect" means a physical or mental functional deficit or impairment in a human embryo, fetus, or newborn resulting from one or more genetic or environmental causes.

(2) "Communicable disease" has the meaning assigned by Section 81.003.

(3) "Director" means the executive head of the department.

(4) "Environmental causes" means the sum total of all the conditions and elements that make up the surroundings and influence the development of an individual.

(5) "Harmful physical agent" has the meaning assigned by Section 503.001.

(6) "Health professional" means an individual whose:

(A) vocation or profession is directly or indirectly related to the maintenance of health in another individual; and

(B) duties require a specified amount of formal education and may require a special examination, certificate, or license or membership in a regional or national association.

(7) "Health facility" includes:

(A) a general or special hospital licensed by the department under Chapter 241;

(B) a physician-owned or physician-operated clinic;

(C) a publicly or privately funded medical school;

(D) a state hospital or state school maintained and managed by the Texas Department of Mental Health and Mental Retardation;

(E) a genetic evaluation and counseling center;

(F) a public health clinic conducted by a local health unit, health department, or public health district organized and recognized under Chapter 121;

(G) a physician peer review organization; and

(H) another facility specified by board rule.

(8) "Midwife" has the meaning assigned by Section 1, Texas Midwifery Act (Article 4512i, Vernon's Texas Civil Statutes).

(9) "Local health unit" has the meaning assigned by Section 121.004.

(10) "Toxic substance" has the meaning assigned by Section 503.001.

Sec. 87.002. CONFIDENTIALITY. (a) Except as specifically authorized by this chapter, reports, records, and information furnished to a department employee or to an authorized agent of the department that relate to cases or suspected cases of a health condition are confidential and may be used only for the purposes of this chapter.

(b) Reports, records, and information relating to cases or suspected cases of health conditions are not public information under the open records law, Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-17a, Vernon's Texas Civil Statutes), and may not be released or made public on subpoena or otherwise except as provided by this chapter.

(c) The department may release medical, epidemiological, or toxicological information:

(1) for statistical purposes, if released in a manner that prevents the identification of any person;

(2) with the consent of each person identified in the information or, if the person is a minor, the minor's parents, managing conservator, guardian, or other person who is legally authorized to consent;

(3) to medical personnel, appropriate state agencies, health authorities, regional directors, and public officers of counties and municipalities as necessary to comply with this chapter and board rules relating to the identification, monitoring, and referral of children with birth defects;

(4) to appropriate federal agencies, such as the Centers for Disease Control of the United States Public Health Service; or

(5) to medical personnel to the extent necessary to protect the health or life of the child identified in the information.

(d) A board member, the director, another employee of the department, or an authorized agent may not be examined in a civil, criminal, special, or other proceeding as to the existence or contents of pertinent records of or reports or information about a child identified or monitored for a birth defect by the department without the consent of the child's parents, managing conservator, guardian, or other person authorized by law of this state or another state or by a court order to give consent.

Sec. 87.003. CONTRACTS. The department may enter into contracts or agreements with persons as necessary to implement this chapter. The contracts or agreements may provide for payment by the state for supplies, equipment, data, and data collection and other services.

Sec. 87.004. LIMITATION OF LIABILITY. A health professional, a health facility, or an administrator, officer, or employee of a health facility subject to this chapter is not civilly or criminally liable for divulging information required to be released under this chapter, except in a case of gross negligence or wilful misconduct.

Sec. 87.005. COOPERATION OF GOVERNMENTAL ENTITIES. Another state board, commission, agency, or governmental entity capable

of assisting the department in carrying out the intent of this chapter shall cooperate with the department and furnish expertise, services, and facilities to the program.

Sec. 87.006. SCIENTIFIC ADVISORY COMMITTEE. (a) The director shall establish a scientific advisory committee to provide practical and scientific advice to the department in implementing an effective birth defects registry and related research, referral, and educational activities.

(b) The committee may be composed of not more than 11 members and must include scientific experts in the fields of birth defects, genetics, epidemiology, and medicine. At least one member must be from the general public.

(c) If the department implements a pilot birth defects registry in selected regions of the state, membership of the scientific advisory committee must include persons who work or live in the areas where the pilot birth defects registry activity is implemented.

(d) The scientific advisory committee shall:

(1) review and advise the department on all proposed projects and programs prior to and during implementation;

(2) monitor the birth defects registry and related programs; and

(3) make recommendations to the department or the legislature, as appropriate.

[Sections 87.007 to 87.020 reserved for expansion]

SUBCHAPTER B. BIRTH DEFECTS MONITORING PROGRAM

Sec. 87.021. SURVEILLANCE PROGRAM: REGISTRY ESTABLISHED. (a) The board may establish in the department a program to:

(1) identify and investigate certain birth defects in children; and

(2) maintain a central registry of cases of birth defects.

(b) The board may authorize the department to implement a statewide program or to limit the program to a part or all of one or more public health regions, depending on the funding available to the department. In establishing the program, the board shall consider:

(1) the number and geographic distribution of births in the state;

(2) the trained personnel and other departmental resources that may be assigned to the program activities; and

(3) the occurrence or probable occurrence of an urgent situation that requires or will require an unusual commitment of the department's personnel and other resources.

(c) The board and the department shall design the program so that the program will:

(1) provide information to identify risk factors and causes of birth defects;

(2) provide information on other possible causes of birth defects;

(3) provide for the development of strategies to prevent birth defects;

(4) provide for interview studies about the causes of birth defects;

(5) together with other departmental programs, contribute birth defects data to a central registry;

(6) provide for the appointment of authorized agents to collect birth defects information; and

(7) provide for the active, not passive, collection of birth defects information.

(d) The board shall adopt rules to govern the operation of the program and carry out the intent of this chapter. At a minimum, the rules shall:

(1) use a medically recognized system to specify the birth defects to be identified and investigated;

(2) select a system for classifying the birth defects according to the public health significance of each defect to prioritize the use of resources;

(3) develop a system to select and specify the cases to be investigated;

(4) specify a system for selecting the demographic areas in which the department may undertake investigations; and

(5) prescribe the training and experience a person must have for appointment as an authorized agent of the department.

(e) In adopting the rules required by Subsection (d), the board shall consider at least:

(1) the known incidence and prevalence rates of a birth defect in the state or portions of the state;

(2) the known incidence and prevalence rates of a particular birth defect in specific population groups who live in the state or portions of the state;

(3) the morbidity and mortality resulting from the birth defect; and

(4) the existence, cost, and availability of a strategy to prevent and treat the birth defect.

Sec. 87.022. DATA COLLECTION. (a) To ensure an accurate source of data necessary to investigate the incidence, prevalence, and trends of birth defects, the board may require a health facility, health professional, or midwife to make available for review by the department or by an authorized agent medical records or other information that is in the facility's, professional's, or midwife's custody or control and that relates to the occurrence of a birth defect specified by the board.

(b) The board by rule shall prescribe the manner in which records and other information are made available to the department.

(c) The board shall adopt procedural rules to facilitate cooperation between the health care facility, health professional, or midwife and a department employee or authorized agent, including rules for notice, requests for medical records, times for record reviews, and record management during review.

Sec. 87.023. REFERRAL FOR SERVICES. A child who meets the medical criteria prescribed by board rule, and the child's family, shall be referred to the department's case management program for guidance in applying for financial or medical assistance available through existing state and federal programs.

[Sections 87.024 to 87.040 reserved for expansion]

SUBCHAPTER C. INVESTIGATIONS AND INSPECTIONS

Sec. 87.041. INVESTIGATIONS. (a) The department may conduct investigations, including epidemiological or toxicological investigations, of cases of specified birth defects.

(b) The department may conduct these investigations to determine the nature and extent of the disease or the known or suspected cause of the birth defect and to formulate and evaluate control measures to protect the public health. The department's investigation is not limited to geographic, temporal, or occupational associations and may include investigation of past exposures.

(c) A person shall provide medical, demographic, epidemiological, toxicological, and environmental information to the department under this chapter.

(d) A person is not liable in damages or other relief for providing medical or other confidential information to the department during an epidemiological or toxicological investigation.

Sec. 87.042. DEPARTMENTAL INVESTIGATORY POWERS. To conduct an investigation under this chapter, the director or the director's designee has the same authority to enter, inspect, investigate, and take samples and to do so in the same manner as is provided for communicable diseases under Sections 81.061, 81.063, 81.064, and 81.065.

[Sections 87.043 to 87.060 reserved for expansion]

SUBCHAPTER D. CENTRAL REGISTRY

Sec. 87.061. REGISTRY: CONFIDENTIALITY. (a) Information collected and analyzed by the department or an authorized agent under this chapter may be placed in a central registry to facilitate research and to maintain security. The department may also store information available from other departmental programs and information from other reporting systems and health care providers.

(b) The department shall use the registry to:

(1) investigate the causes of birth defects and other health conditions as authorized by Texas statutes;

(2) design and evaluate measures to prevent the occurrence of birth defects and other health conditions; and

(3) conduct other investigations and activities necessary for the board and department to fulfill their obligation to protect the health of the public.

(c) The department may store in the central registry information that is obtained from the section of the birth certificate entitled "For Medical and Health Use Only." This information may be used only as provided by Section 191.002(b), relating to the form and contents of the birth certificate.

Sec. 87.062. ACCESS TO INFORMATION. (a) Access to the central registry information is limited to authorized department employees and other persons with a valid scientific interest who are engaged in demographic, epidemiological, or other studies related to health and who agree in writing to maintain confidentiality.

(b) The department shall maintain a listing of each person who is given access to the information in the central registry. The listing shall include:

(1) the name of the person authorizing access;
(2) the name, title, and organizational affiliation of each person given access;

(3) the dates of access; and

(4) the specific purpose for which the information was used.

(c) The listing is public information, is open to the public under the open records law, Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-17a, Vernon's Texas Civil Statutes), and may be inspected during the department's normal hours of operation.

Sec. 87.063. RESEARCH: REVIEW AND APPROVAL. (a) The director and the department's committee for the protection of human subjects shall review each research proposal that requests the use of information in the central registry. The board shall adopt rules establishing criteria to be used in deciding if the research design should be approved. A proposal that meets the approval criteria is considered to establish a valid interest as required by Section 87.062(a), and the director and the committee shall authorize the researcher to review the records relevant to the research proposal and to contact cases and controls.

(b) If an investigator using central registry data under a research design approved under this section believes it is necessary to contact case subjects and controls, the investigator must submit a protocol describing the purpose and method to the director and the department's committee for the protection of human subjects. If the contact protocol is approved, the investigator is considered to have established a bona fide research, development, or planning purpose and is entitled to carry out the contacts without securing additional approvals or waivers from any entity.

Sec. 87.064. REPORT OF CENTRAL REGISTRY ACTIVITIES AND FINDINGS. (a) The department shall publish an annual report of activities using data contained in the central registry. The report shall include:

(1) a description of research projects in progress since the last report and the sponsors and principal investigators directing each project;

(2) results of the completed research projects either as an abstract or a complete scientific paper that has been reviewed and approved by an appropriate jury;

(3) a summary of the statistical information compiled in the registry, including a specific discussion of any clusters, high or low incidences, or prevalences or trends encountered;

(4) any policy, research, educational, or other recommendations the department considers appropriate; and

(5) such other information the editors of the report find is appropriate.

(b) The department may publish periodic reports in addition to the annual report.

Sec. 87.065. COORDINATION WITH MEXICO. In developing the central registry and conducting research in areas of this state that border Mexico, the department shall make every effort to coordinate its efforts with similar efforts and research programs in Mexico.

SECTION 2. (a) This Act takes effect September 1, 1993.

(b) The Texas Board of Health shall adopt rules as required by Chapter 87, Health and Safety Code, as added by this Act, not later than October 15, 1993.

(c) The Texas Department of Health shall begin to collect information as required by Chapter 87, Health and Safety Code, as added by this Act, not later than January 1, 1994.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The Conference Committee Report was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 97**

Senator Lucio submitted the following Conference Committee Report:

Austin, Texas
May 25, 1993

Honorable Bob Bullock
President of the Senate

Honorable Pete Laney
Speaker of the House of Representatives

Sirs:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on S.B. 97 have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

LUCIO	OAKLEY
BROWN	BAILEY
MADLA	GRANOFF
ARMBRISTER	HAGGERTY
SHELLEY	

On the part of the Senate	On the part of the House
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**A BILL TO BE ENTITLED
AN ACT**

relating to continued health care benefits for and death benefits payable to the survivors of certain public servants.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subdivisions (1), (2), (4), (8), and (9), Subsection (a), Section 2, Chapter 86, Acts of the 60th Legislature, Regular Session, 1967 (Article 6228f, Vernon's Texas Civil Statutes), are amended to read as follows:

(1) "Violent death in the course of performance of duty" means loss of life resulting from exposure to a risk inherent in the particular duty

performed ~~or a~~ ~~[and which]~~ risk ~~[is one]~~ to which the general public is not customarily exposed.

(2) "Paid law enforcement officer" means a person elected, appointed, or employed as a peace officer by the state or a political subdivision of the state under [as defined in] Article 2.12, [Texas] Code of Criminal Procedure, or other law ~~[1965, and includes game wardens who are employees of the State of Texas paid on a full time basis for the enforcement of game laws and regulations, and campus security personnel commissioned as peace officers by authority granted under Section 51.203; Texas Education Code].~~

(4) "Custodial personnel of the institutional division of the Texas Department of Criminal Justice ~~[Corrections]~~" means the class of employees of the institutional division ~~[Department of Corrections]~~ designated as custodial personnel by a resolution adopted by the Texas Board of Criminal Justice or its predecessor in function ~~[Corrections]~~.

(8) "Paid probation officer" means an officer appointed by the director of a community supervision and corrections department ~~[a district judge or district judges]~~ with the qualifications and duties set out in Sections 2 and 5, Article 42.131 ~~[Section 10, Article 42.12]~~, Code of Criminal Procedure, or an officer performing the duties of a paid probation officer who was appointed by a district judge or district judges under former law ~~[1965, as amended]~~.

(9) "Paid parole officer" means an officer of the pardons and paroles division ~~[Division of Parole Supervision]~~ of the Texas Department of Criminal Justice ~~[Board of Pardons and Paroles]~~ who has the qualifications and duties set out in Sections 2 and 19, Article 42.18 ~~[26 through 29, Article 42.12]~~, Code of Criminal Procedure, or in former law ~~[1965, as amended]~~.

SECTION 2. Section 3, Chapter 86, Acts of the 60th Legislature, Regular Session, 1967 (Article 6228f, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 3. ASSISTANCE PAYABLE. (a) In any case in which a paid law enforcement officer, paid probation officer, paid parole officer, paid jailer, capitol security commissioned officers, campus security personnel, a member of an organized police reserve or auxiliary unit, custodial personnel of the institutional division of the Texas Department of Criminal Justice ~~[Corrections]~~, Texas Department of Mental Health and Mental Retardation personnel who perform on-site services for the Texas Department of Criminal Justice, supervisory personnel in a county jail, juvenile correctional employee of the Texas Youth Commission, employee of the maximum security unit of the Texas Department of Mental Health and Mental Retardation ~~[Rusk State Hospital for the Criminally Insane]~~, paid fireman, and/or member of an organized volunteer fire department and/or park and recreational patrolmen and security officers suffers violent death in the course of his duty as such paid law enforcement officer, paid probation officer, paid parole officer, paid jailer, campus security personnel, member of an organized police reserve or auxiliary unit, custodial personnel of the institutional division of the Texas Department of Criminal Justice ~~[Corrections]~~, Texas Department of Mental Health and

Mental Retardation personnel who perform on-site services for the Texas Department of Criminal Justice, supervisory personnel in a county jail, juvenile correctional employee of the Texas Youth Commission, employee of the maximum security unit of the Texas Department of Mental Health and Mental Retardation [Rusk State Hospital for the Criminally Insane], paid fireman, member of an organized volunteer fire department, or park and recreational patrolmen and security officers, the State of Texas shall pay to the surviving spouse of such paid law enforcement officer, paid probation officer, paid parole officer, paid jailer, campus security personnel, member of an organized police reserve or auxiliary unit, custodial personnel of the institutional division of the Texas Department of Criminal Justice [Corrections], Texas Department of Mental Health and Mental Retardation personnel who perform on-site services for the Texas Department of Criminal Justice, supervisory personnel in a county jail, juvenile correctional employee of the Texas Youth Commission, employee of the maximum security unit of the Texas Department of Mental Health and Mental Retardation [Rusk State Hospital for the Criminally Insane], paid fireman, or member of an organized volunteer fire department, or park and recreational patrolmen and security officers the sum of \$50,000 [~~\$20,000~~] and in addition thereto, if such paid law enforcement officer, paid probation officer, paid parole officer, paid jailer, campus security personnel, member of an organized police reserve or auxiliary unit, custodial personnel of the institutional division of the Texas Department of Criminal Justice [Corrections], Texas Department of Mental Health and Mental Retardation personnel who perform on-site services for the Texas Department of Criminal Justice, supervisory personnel in a county jail, juvenile correctional employee of the Texas Youth Commission, employee of the maximum security unit of the Texas Department of Mental Health and Mental Retardation [Rusk State Hospital for the Criminally Insane], paid fireman, or member of an organized volunteer fire department, or park and recreational patrolmen and security officers shall be survived by a minor child or minor children, the State of Texas shall pay to the duly appointed or qualified guardian or other legal representative of each minor child the following assistance:

If one minor child—\$200 per month;

If two minor children—\$300 per month; and

If three or more minor children—\$400 per month.

Provided, that when any child entitled to benefits under this Act ceases to be a minor child as that term is defined herein, his entitlement to benefits shall terminate and any benefits payable under this Act on behalf of his minor brothers and sisters, if any, shall be adjusted to conform with the foregoing schedule if necessary.

(b) If a person covered by this Act suffers violent death in the course of duty, and only if that person is not survived by a spouse or minor child, the State of Texas shall pay to the surviving dependent parent of the person covered by this Act the sum of \$50,000 [~~\$20,000~~]. If both parents of a person covered by this Act are surviving dependent parents, the State of Texas shall pay \$25,000 [~~\$10,000~~] to each parent.

In addition to the payment to surviving dependent parents, and only if a person covered by this Act is not survived by a spouse or minor child, the State of Texas shall pay to the surviving dependent brothers and sisters, or to the duly appointed or qualified guardian or other legal representative of each surviving dependent brother or sister, the following assistance:

If one surviving dependent brother or sister—\$200 per month;

If two surviving dependent brothers or sisters—\$300 per month; and

If three or more surviving dependent brothers or sisters—\$400 per month.

Provided, that when any surviving dependent brother or sister becomes 18 years old, that person's entitlement to benefits shall terminate and any benefits payable under this Act on behalf of other surviving dependent brothers and sisters shall be adjusted to conform with the foregoing schedule if necessary.

SECTION 3. Chapter 86, Acts of the 60th Legislature, Regular Session, 1967 (Article 6228f, Vernon's Texas Civil Statutes), is amended by adding Section 3A to read as follows:

Sec. 3A. HEALTH INSURANCE COVERAGE FOR SURVIVORS OF CERTAIN STATE EMPLOYEES. (a) If a paid law enforcement officer employed by the state or a person designated as custodial personnel of the institutional division of the Texas Department of Criminal Justice suffers violent death in the course of performance of duty, a person who meets the requirements of Subsection (b) of this section is entitled to purchase continued health insurance benefits under the Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code), as provided by this section.

(b) A person is entitled to purchase benefits as provided by this section if the person, at the time of death of a paid law enforcement officer employed by the state or a person designated as custodial personnel of the institutional division of the Texas Department of Criminal Justice, is the surviving spouse or a dependent of the officer or custodial employee.

(c) If the dependent is a surviving minor child, the dependent is entitled to continue health insurance coverage until the dependent reaches the age of 21 years or until the dependent becomes eligible for group health insurance through another employer.

(d) If the dependent is not a minor child, the dependent is entitled to continue health insurance coverage until the earlier of:

(1) the date the dependent marries;

(2) the date the dependent becomes eligible for group health insurance through another employer; or

(3) the date the dependent becomes eligible for federal Medicare benefits.

(e) The surviving spouse is entitled to continue to purchase health insurance coverage until the earlier of:

(1) the date the surviving spouse remarries;

(2) the date the surviving spouse becomes eligible for group health insurance through another employer; or

(3) the date the surviving spouse becomes eligible for federal Medicare benefits.

(f) To receive continued coverage under this section, the employing entity must be informed, not later than the 90th day after the date that the decedent died, that the eligible survivor elects to continue coverage.

(g) An eligible survivor may elect to continue coverage at any level of benefits currently offered by the employing entity to dependents of an active employee, or, if offered, the survivor may elect to continue coverage at a reduced level of benefits.

(h) A person who is entitled to continued coverage under this section is entitled to:

(1) make payments for the coverage or have payments made on the person's behalf at the same time and to the same entity that payments for coverage are made by current employees of the employing entity; and

(2) purchase the coverage at the group rate for that coverage that exists at the time of payment.

(i) The employing entity shall provide written notice to an eligible survivor to whom this section may apply of the person's rights under this section not later than the 10th day after the date of the decedent's death. If an eligible survivor is a minor child, the employing entity shall also contemporaneously provide the notice to the child's parent or guardian, unless, after reasonable effort, the parent or guardian cannot be located.

(j) This section does not:

(1) prohibit an employing entity from uniformly changing the group health insurance plan or group health coverage plan provided for its employees and employees' dependents;

(2) affect the definition of a dependent or the eligibility requirements for a dependent under a plan; or

(3) prohibit an employing entity from increasing the cost of group health coverage to its employees and to eligible survivors covered under this section to reflect the increased cost, if any, attributable to compliance with this section.

SECTION 4. Section 4, Chapter 86, Acts of the 60th Legislature, Regular Session, 1967 (Article 6228f, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 4. ADMINISTRATION. This Act shall be administered by the State Board of Trustees of the Employees Retirement System of Texas, under rules and regulations adopted by said Board. Proof of death claimed to be violent death in the course of performance of duty of a paid law enforcement officer, paid probation officer, paid parole officer, paid jailer, campus security personnel, member of an organized police reserve or auxiliary unit, custodial personnel of the institutional division of the Texas Department of Criminal Justice, Texas Department of Mental Health and Mental Retardation personnel who perform on-site services for the Texas Department of Criminal Justice [Corrections], supervisory personnel in a county jail, juvenile correctional employee of the Texas Youth Commission, employee of the maximum security unit of the Texas Department of Mental Health and Mental Retardation [Rusk State Hospital for the Criminally Insane], paid fireman, member of an organized volunteer

fire department or park and recreational patrolmen and security officer shall be furnished to said Board of Trustees in such form as it may require, together with such additional evidence and information as it may require.

SECTION 5. Section 7, Chapter 86, Acts of the 60th Legislature, Regular Session, 1967 (Article 6228f, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 7. EFFECT OF AWARD. Except as provided by Article 6228f.1, Revised Statutes, any [Any] finding that any benefit is payable to the surviving spouse, minor child or children, or surviving dependent parent, brother, or sister of a person to whom this Act applies shall not be declaratory of the cause, nature or effect of such death for any other purpose whatsoever, and a finding that a particular loss of life is within the provisions of this Act shall not affect in any manner any other claim or cause of action whatsoever arising from or connected with such loss of life.

SECTION 6. Title 109, Revised Statutes, is amended by adding Article 6228f.1 to read as follows:

Art. 6228f.1. RIGHTS OF SURVIVORS OF CERTAIN PUBLIC SERVANTS

Sec. 1. APPLICATION. This article applies only to paid law enforcement officers, paid firemen, and supervisory personnel in a county jail, as those persons are defined by Section 2, Chapter 86, Acts of the 60th Legislature, Regular Session, 1967 (Article 6228f, Vernon's Texas Civil Statutes), who are employed by a political subdivision of the state and to the political subdivisions that employ those persons.

Sec. 2. DEFINITIONS. In this article, "minor child" and "violent death in the course of performance of duty" have the meaning assigned by Section 2, Chapter 86, Acts of the 60th Legislature, Regular Session, 1967 (Article 6228f, Vernon's Texas Civil Statutes).

Sec. 3. BENEFITS REGARDLESS OF CAUSE OF DEATH. (a) If a paid law enforcement officer or a person appointed as supervisory personnel in a county jail dies, the employing political subdivision shall provide, at no cost, the deceased person's duty weapon, if any, and badge to the person's designated beneficiary, or if there is no designated beneficiary, to the person's estate. Each political subdivision of the state that employs paid law enforcement officers or county jail supervisory personnel shall provide them with a form on which they may designate their beneficiaries for purposes of this subsection.

(b) A political subdivision is not liable for damages caused by the use or misuse of a duty weapon provided to a designated beneficiary or estate under Subsection (a) of this section.

(c) If a paid law enforcement officer, paid fireman, or person appointed as supervisory personnel in a county jail dies and is to be buried in the person's uniform, the employing political subdivision shall provide the uniform at no cost.

Sec. 4. HEALTH INSURANCE COVERAGE. (a) When a person to whom this article applies suffers violent death in the course of performance of duty and it is determined under Chapter 86, Acts of the 60th Legislature, Regular Session, 1967 (Article 6228f, Vernon's Texas Civil

Statutes), that a claim under that Act is valid and justifies payment under that Act, then in addition to any benefits payable by the state under that Act, an eligible survivor is entitled to purchase continued health insurance benefits from the political subdivision that employed the decedent as provided by this section.

(b) In this section, "health insurance" includes health coverage provided by or through a political subdivision under a self-insured health benefits plan or under Chapter 172, Local Government Code.

(c) An eligible survivor under this section is a person who, on the date of death of the paid law enforcement officer, paid fireman, or person appointed as supervisory personnel in a county jail, is the surviving spouse or a dependent of the officer, fireman, or supervisory employee.

(d) If the dependent is a surviving minor child, the dependent is entitled to continue health insurance coverage until the dependent reaches the age of 21 years or until the dependent becomes eligible for group health insurance through another employer.

(e) If the dependent is not a minor child, the dependent is entitled to continue health insurance coverage until the earlier of:

(1) the date the dependent marries;

(2) the date the dependent becomes eligible for group health insurance through another employer; or

(3) the date the dependent becomes eligible for federal Medicare benefits.

(f) The surviving spouse is entitled to continue health insurance coverage until the earlier of:

(1) the date the surviving spouse remarries;

(2) the date the surviving spouse becomes eligible for group health insurance through another employer; or

(3) the date the surviving spouse becomes eligible for federal Medicare benefits.

(g) To receive continued coverage under this section, the employing entity must be informed, not later than the 90th day after the date that the decedent died, that the survivor elects to continue coverage.

(h) An eligible survivor may elect to continue coverage at any level of benefits currently offered by the employing entity to dependents of an active employee, or, if offered, the survivor may elect to continue coverage at a reduced level of benefits.

(i) A person who is entitled to continued coverage under this section is entitled to:

(1) make payments for the coverage or have payments made on the person's behalf at the same time and to the same entity that payments for coverage are made by current employees of the employing entity; and

(2) purchase the coverage at the group rate for that coverage that exists at the time of payment.

(j) The employing entity shall provide written notice to an eligible survivor to whom this section may apply of the person's rights under this section not later than the 10th day after the date of the decedent's death. If an eligible survivor is a minor child, the employing entity shall also

contemporaneously provide the notice to the child's parent or guardian unless, after reasonable effort, the parent or guardian cannot be located.

(k) This section does not:

(1) prohibit a political subdivision from uniformly changing the group health insurance plan or group health coverage plan provided for its employees and employees' dependents;

(2) affect the definition of a dependent or the eligibility requirements for a dependent under a plan;

(3) prohibit a political subdivision from increasing the cost of group health coverage to its employees and to eligible survivors covered under this section to reflect the increased cost, if any, attributable to compliance with this section; or

(4) affect the right of a political subdivision to self-insure or provide coverage under Chapter 172, Local Government Code.

SECTION 7. Title 109, Revised Statutes, is amended by adding Article 6228f.2 to read as follows:

Art. 6228f.2. DEATH BENEFIT FOR PEACE OFFICERS EMPLOYED BY THE STATE. (a) If a person who is a peace officer under Article 2.12, Code of Criminal Procedure, or other law and who is employed by the state, including any state agency or any institution of higher education under Section 61.003, Education Code, dies, the state or the appropriate agency or institution of the state shall provide, at no cost, the deceased person's duty weapon, if any, and badge to the person's designated beneficiary or, if there is no designated beneficiary, to the person's estate. The state and each agency or institution of the state that employs peace officers shall provide each officer with a form on which the officer may designate beneficiaries for purposes of this subsection.

(b) The state or an agency or institution of the state is not liable for damages caused by the use or misuse of a duty weapon provided to a designated beneficiary or estate under Subsection (a) of this article.

(c) If a peace officer covered under Subsection (a) of this article dies and is to be buried in the person's uniform, the state or appropriate employing agency or institution of the state shall provide the uniform at no cost.

SECTION 8. This Act takes effect September 1, 1993.

SECTION 9. (a) The changes in law made by this Act relating to the death of certain public servants apply only to a death that occurs on or after the effective date of this Act. A death that occurred before the effective date of this Act is governed by the law in effect when the death occurred, and that law is continued in effect for that purpose.

(b) An employing entity that is required by this Act to make continued health benefits available to a survivor of an employee, but that is not allowed to provide the coverage under the terms of the entity's existing group health plan, shall ensure that the required continued health benefits coverage is provided for in any plan that is adopted, amended, or renewed by the employing entity on or after the effective date of this Act. The period during which a person must inform an employing entity that the person elects to continue health benefits coverage under this Act is extended by the amount of time that occurs after the date that the

employee dies and before the date that the survivor receives written notice from the employing entity that the survivor is presently able to purchase the continued health benefits coverage required to be provided under this Act.

SECTION 10. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The Conference Committee Report was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 253

Senator Barrientos submitted the following Conference Committee Report:

Austin, Texas
May 25, 1993

Honorable Bob Bullock
President of the Senate

Honorable Pete Laney
Speaker of the House of Representatives

Sirs:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on H.B. 253 have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

BARRIENTOS	PLACE
ARMBRISTER	GREENBERG
HARRIS OF TARRANT	GOODMAN
WEST	S. TURNER
MONCRIEF	PUENTE
On the part of the Senate	On the part of the House

The Conference Committee Report was filed with the Secretary of the Senate.

MEMORIAL RESOLUTIONS

S.R. 1077 - By Turner, Barrientos: In memory of Oliver Leroy Peterson of Round Rock.

S.R. 1078 - By Barrientos: In memory of Jack Reynolds of Austin.

CONGRATULATORY RESOLUTIONS

S.R. 1070 - By Sims: Honoring Texas Summer Youth Camps for their roles in the education and development of young Texans and declaring the first week in June as Texas Youth Camp Week.

S.R. 1071 - By Ellis: Honoring Dr. Norman Hackerman, who was the 1993 recipient of the Vannevar Bush Award given by the National Science Foundation.

S.R. 1073 - By Lucio: Commending Chief Patrol Agent Silvestre Reyes of El Paso for his career in law enforcement.

S.R. 1074 - By Lucio: Recognizing the Valley Proud Environmental Council, which was honored by being named the 1993 recipient of the Texas Urban Forestry Council Award.

S.R. 1075 - By Ellis: Recognizing Commissioner Milton Carroll of the Port of Houston Commission on his achievements and for his contributions to our state.

S.R. 1076 - By Ratliff: Congratulating Kevin and Jill Kent of Mount Pleasant on the occasion of the birth of their daughters, Kaitlyn, Karson, Klaire, and Kinsey.

ADJOURNMENT

On motion of Senator Harris of Dallas, the Senate at 5:15 p.m. adjourned until 10:30 a.m. tomorrow.

APPENDIX

REPORTS OF STANDING COMMITTEES

The following committee reports were received by the Secretary of the Senate:

May 26, 1993

STATE AFFAIRS — C.S.H.B. 2321, H.B. 1898 (Amended), H.B. 2265, H.B. 1047, H.B. 1897, H.B. 908, H.B. 2310

INTERGOVERNMENTAL RELATIONS — C.S.H.B. 1696

FINANCE — H.J.R. 67, H.C.R. 125

ADMINISTRATION — S.C.R. 8, S.C.R. 102, S.C.R. 90, S.C.R. 23, S.C.R. 22

INTERGOVERNMENTAL RELATIONS — H.B. 1266 (Amended), H.B. 1673 (Amended), C.S.H.B. 519, H.B. 1127

SIGNED BY GOVERNOR

(May 25, 1993)

H.B. 1587 (Effective September 1, 1993)

H.B. 1920 (Effective August 30, 1993)

H.B. 2771 (Effective September 1, 1993)